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THE LAWGIVER AND HIS LAWMAKERS: THE ROLE OF LEGAL DISCOURSE IN THE CHANGE OF OTTOMAN IMPERIAL CULTURE

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Abbreviations:

BBA – Başbakanlık Osmanlı Arşivi
EI- Encyclopedia of Islam
GHB – Gazi Husrev Beg Library
GZM – Glasnik Zemaljskog Muzeja
IJMES – International Journal of Middle East Studies
POF – Prilozi za orijentalnu filologiju
SK – Süleymaniye Kütüphânesi
TTD – Tapu Tahrîr Defterleri
TTK – Türk Tarih Kurumu
SUNY – State University of New York
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to the major works of scholarship and literature, but also to the correspondence, dreams, short observations, and literary taste of the learned Ottomans.

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To Sara and Leila
ABSTRACT

My dissertation “The Lawgiver and His Lawmaker: The Role of Legal Discourse in the Change of Ottoman Imperial Culture” explores a selection of legal documents and treatises authored by Ottoman Sultan Süleyman the Magnificent (1520-1566) and the most prominent jurist in his time: the şeyhül’slam Ebu’s-Su‘ûd. The thesis demonstrates how the legal discourse of the period ordered the imperial culture by developing the matrix on which both the Muslim community and society at large was recreated. Drawing on sources in Arabic and Ottoman Turkish that represent the legal discourse as well as on the literature that discusses the imperial order, I historicize how Islamic jurisprudence was employed in formulation of the ideology of “law and order” and “perfect justice” that Süleyman the Magnificent declared as hallmark of his rule, and the active role it played in Süleyman’s project of remaking social, religious, and political structures.

The dynamics of the relationship between the science of determining God’s law, positive law, and legal practice in the sixteenth-century Ottoman Empire is clearly one of mutual cognition. The cultural significance of the Islamic law (often implied in varied definitions emphasizing its all-embracing character, comprising regulations of all aspects of life of every Muslim) is revealed through a developed legal discourse (and discourse on law), the speech and action that determines and expresses the new Ottoman and Islamic identity. The Ottoman legal discourse of the
period provides the most comprehensive representation of the political, social and cultural developments that mark the new age in the history of Islamdom.

Finally, the changes in the structure of the Ottoman socio-political organism as well as the changes of the imperial culture are best reflected through the ordered world of the Ottoman imperial archives that classified the diversity and unity of the composite society, and appropriated and perpetuated its legal practices.
INTRODUCTION

Like any other law, and more admittedly so, Islamic law is an art of constituting community.¹ Beginning with the sixteenth century, the Ottoman world of records² provides a unique window onto this, essentially cultural aspect of Islamic law. The obvious interconnectedness of Ottoman jurisprudence, positive law, and legal practice refutes several established views. First is the modern scholarly view of Islamic jurisprudence as an autonomous abstract theory, an ahistorical l’art pour l’art.³ Second is the understanding of Ottoman kânûn as the sultan’s law, the legislation of the ruler’s will.⁴ The third is the understanding of legal practice as

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¹ This “definition” of law is derived from J. B. White’s explanation of rhetoric and law: “Rhetoric should be seen as the central art by which culture and community are established, maintained, and transformed. This kind of... ‘constitutive rhetoric’... has justice as its ultimate subject, and of it I think law can be seen as a species.” (Heracles’ Bow: Essays on the Rhetoric and Poetics of the Law, Madison: University of Wisconsin Press, 1985, p. 37.

² I propose the expression “the world of records” as a generic term covering the totality of items recorded regardless of regularities, composition, preferences and selections. The distinction between the world of records and specific archives is of extreme importance in the context of the early modern Ottoman history, because the Ottomans, as I intend to argue later, developed a strong consciousness of the ways in which they deposited and preserved a variety of written materials in the archives of their central and provincial offices, as well as in the numerous private and madrasa libraries.

³ Even though some recent studies present strong argument for the historicity of Islamic law (see, for example A. Al-Azmeh ed. Al-Azmeh, Aziz ed. Islamic Law: Social and Historical Contexts, London & New York: Routledge, 1988.), there are very few case studies of that interconnectedness.

⁴ The above view of the kânûn is rarely explicitly stated. However, in most of the studies of Ottoman kânûn, from İnalcık’s articles on the kânûn and kânûnnâme in EI, to recent discussions of the importance and character of the kânûn law during and after Suleyman’s rule, the role of royal will is emphasized in two different ways. In the description of the process of lawmaking İnalcık emphasizes
controlled and directed exclusively by the state. The latter implies two things: first that the judicial apparatus is an essential part of the government or state apparatus, and second, that legislation precedes legal behavior, i.e. that the relationship between the norm and behavior is causal.

The narratives and documents of the sixteenth and seventeenth century, representing the kânûn consciousness among the learned Ottomans, add a new dimension to the understanding of the relationship between the shari‘a and the kânûn law, the understanding that views law as common property, owned and determined ideally by the community of believers. The dynamics of the relationship between the science of determining God’s law, positive law, and legal practice in the sixteenth-century Ottoman Empire is clearly one of mutual cognition. The cultural significance of Islamic law (often implied in various definitions emphasizing its all-embracing character, comprising regulations of all aspects of life of every Muslim) is revealed through a developed legal discourse (and discourse on law), the speech and action that determines and expresses the new Ottoman and Islamic identity. The Ottoman legal discourse of the period provides the most comprehensive representation of the political, social and cultural developments that mark the new age in the history of Islamdom.

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sultanic decree as the starting point of the process (“Kânûn,” EI, p.558). B. Tezcan, for example, introduces the view that some legislative documents, such as the kânûnnâme of Mehmed II were presented as a product of royal will (“The “kânûnnâme of Mehmed II”: A Different perspective.” In: Çiçek Kemal ed. The Great Ottoman Turkish Civilization, vol. 3, S. l.: Yeni Türkiye, s.a., p. 657.).
In modern historical interpretation the sixteenth century is seen as the period of a large-scale political reconfiguration resulting in the establishment of the great empires - Ottoman, Safavid and Mughal⁵ - that would dominate the Islamic world for the next three centuries. The Ottoman state occupies a special position within this constellation. Among the great empires it was the only one whose history neither began nor ended in the early modern period. From the time of Mehmed the Conqueror (1451-1481) the Ottoman sultans ruled over a state that had the attributes of an empire. Their state was a regional power extending its sovereignty over a large territory in southeast Europe and west Asia Minor, and over a conglomerate of ethnic and religious groups. As interpreted by modern historians, the developments of the early sixteenth century that brought the Ottoman Empire into the orbit of the large-scale political configuration did not represent a break with its past. Continuity, rather than change has been the dominant concept of studying for the development of the Ottoman polity from the late thirteenth/beginning of the fourteenth century until the sixteenth century, which is understood as the culmination of Ottoman power.

Historians define the distinctive features of the change from Mehmed the Conqueror’s empire to that of Süleyman the Magnificent in terms of territorial expansion into the core lands of Islam, i.e. the Middle East and Northern Africa. The unprecedented growth of the Ottoman bureaucracy and its archives, the new promulgation of Kânûn law, and the restoration of the caliphate are all seen as

⁵ Often, the Uzbek Empire is added to this list (See for example: M. Hodgson, The Venture of Islam, Chicago: The University of Chicago Press, 1977, p. 16).
developments induced by the territorial expansion under Selim I and Süleyman Kânûni. The emphasis is also placed on the introduction of the gunpowder technology by all three empires as the major factor that served both military (expansion) and political (governing and control) ends.

The present study examines the mentioned developments through the prism of the legal discourse of the time. Contemporary legal discourse represents developments of the sixteenth century, the conquest of the Arab lands and parts of Iran included, in the context of the competing renewalist and universalist agenda. The Ottoman expansion into the Arab world, the re-conceptualization of the political and religious leadership, the integration of the new empire, and its consolidation and unification, are abundantly documented, and perhaps also best explained, in the texts that represent the legal discourse of the time. Seen through the prism of legal discourse the history of the formation of the new, universal empire of the Ottomans evolves in the following way:

The transition of power following the sudden death of Selim I (1512-1520) was marked by the introduction of a new conception of sovereignty to which the young Süleyman was inaugurated, that of the universal saintly king whose very presence would cause all of the constituting elements of his new devlet to fall into their proper place. This event, construed and presented as the realization of the messianic expectation of the late fifteenth and early sixteenth century, was announced through a legal document: the preamble to the kânûnnâme of Egypt from 1525. In this
document the energies of the boiling religious zeal of the time were translated into a manifesto of the young ruler wherein he, and his dynastic legacy were represented as the nexus of the new universal empire. In this document the chief chancellor (nişancı) Celâlzâde appears as the consolidator and systematizer of the Ottomân kânûn law, and the translator of the religio-cultural sentiments of the time into the new imperial ideology. The sultan is no longer the peer of his soldiers and commanders, distinguished for his wisdom, courage and leadership, but an invisible overarching figure that shapes and puts into motion the imperial scenery. As the young sultan was removed from the position of primus ante pares, a young and capable slave, Ibrahim, was placed in that position (ch. 1)

Ibrahim, who was raised and educated at Süleyman’s princely court, later becomes the main and the only visible protagonist of the competing universalist program, which was informed by the purist reformist currents of the time. This program was introduced through the preambles of the kânûnnâmes of the Rumelian provinces in the early 1530’s.

The Egyptian preamble glorified the Ottoman kânûn law as a consistent system of laws, that were in harmony with the divine law, and also superior to the laws of the newly conquered regions. The preambles of the Rumelian provinces contradicted that representation by purging several important kânûns of those provinces and replacing them with laws that were seen as replicating the laws of the shari’a. Having the full trust of the sultan, Ibrahim pasha not only used his power to
change the legislative policy, but also began to act as a separate sovereign, and not merely as the sultan’s *alter ego*. His execution marked the end of the period that was defined by the focus on the sultan as a leader who would reunite the new universal empire (ch. 2).

The focus shifted by the appointment to the position of kaziasker of Rumelia of one of the most prominent legal scholars of the time, Ebu’s-Su‘ûd Efendi. In contrast to the other two lawmakers in the sultan’s service, the high administrator Celâlizâde, and the grand vizier Ibrahim Pasha, Ebu’s-Su‘ûd changed the focus of Islamic renewal from constructing the new persona of the sovereign to establishing the sovereignty of law.

He too began his intervention through a preamble. The preamble to the kânûnnâme of Buda, which he composed, introduced the new legal system, that of the Ottomans, into a new province with no Islamic past. There, the legal past, such as that of the Mamluks in Egypt, or the past Ottoman practices in Rumelia, did not represent a legal challenge. The challenge was only a political one: to introduce an effective and clearly defined system of land tenure and taxation that would tie the province to the Ottoman core lands, and that would remove the danger of political challenges coming from the Holy Roman Emperor who still claimed sovereignty over the territory of the Hungarian kingdom. In this legally uncharted area Ebu’s-Su‘ûd succeeded not only in presenting a well-defined system of land tenure and taxation,
but also affirmed and emancipated the long-established Ottoman legal practices in other Rumelian provinces.

The legal practices of the Ottomans, derived from the land system known as *miri* became a source of controversy through Ibrahim Pasha’s attempt to purge the laws associated with that system, but also originated in long resistance among the Ottoman military elite to the idea of the state ownership of the land.

In the view of the revisionist reformers the renewal of universal Islam had to focus on what they saw as the return to a simple yet effective system. That system had to emerge through purification of what was seen as historical layers of unselective appropriation of local customs, which were all seen as erroneous innovations.

The legal discourse of Ebu’s-Su‘ûd did not focus on revision, but rather on renewal of the dialogue between jurisprudence and legal practice. He did not address the legal issues of the past. Instead, he revived the memory of the legal principles on which the Ottoman legal culture was based. Instead of reducing the diversity of laws and legal practices he identified the necessity to provide, or rather bring back to focus, the old and time-affirmed knowledge of the classical jurisprudence that provided definition of the legal regime known as the *miri*. In place of the apologist interpretation of that land regime offered by the previous şeyhülislam Kemal Paşa-zâde, that implied the improvisational character of that regime, one that was neither *harâcî* nor *‘ôşi* but a medial type designed to accommodate the specific
circumstances of the Ottoman position, Ebu’s-Su’ûd presented that regime as a long-legitimized variant of the harâcî land regime.

Ebu’s-Su’ûd’s masterful, yet subtle juridical intervention made possible the reintegration of the Ottoman lands without reducing the diversity of its laws. At the same time and by the same token, he restored and legitimized the claim presented in the Egyptian preamble about the Ottoman legal system as a consistent legal system that could support the Ottoman claim to the leadership of Islamic renewal. His own ambition, as a jurist, to restore the sovereignty of legal learning, and to redefine the renewal of the age, was further enhanced by the success of this intervention.

From his appointment to the post of the kazıasker of Rumelia in 1537 until Süleyman’s death Ebu’s-Su’ûd was the principal lawmaker of Süleyman. While he never composed laws himself (although some of his interpretations, especially those in the field of land tenure and taxation later became recognized as kânûn), he identified the issues of importance and presented his opinions to the sultan who issued law in accordance to them. The latter work of Ebu’s-Su’ûd was compiled in the collection of his juridical opinions known as Petitions (Ma’rûzât) (ch. 3).

Parallel to and interconnected with Ebu’s-Su’ûd’s interpretation of the Kânûn law was the transformation of the latter under the influence of the new understanding of law as common property, which emerged under Süleymân’s rule. After it was compiled, systematized and consolidated by Celâlzâde, and took the form of a comprehensive law code representing the legacy of the legal practices protected and
enforced by the Ottoman dynasty, Kânûn law became more thoroughly and systematically introduced in the provincial tax registers. It was made commonly known not only to those to whom it applied, and to the administrators who oversaw its application, but also to all learned Ottomans. Thus, the Kânûn law became the focus of interest and discussion among the ulema. From the imperial decrees and tax registers the Kânûn law and the discussions of it moved into qadi registers, works of nasihat genre, and historical and other narratives (ch. 4).

Ibrahim Pasha, as the alter ego of the sultan/caliph who was put in charge of the affairs defined by the relationship between religion and state (din ve devlet), was replaced by law as substitute persona of the ruler. This law was represented by the jurists and judicial officials, who emerged as a separate entity co-opting the sultan/caliph. The sultan’s role becomes that of an ultimate, yet symbolical authority. The caliphal sovereignty of the sultan becomes derived from, and not defining the just order that he initially declared the hallmark of his rule.\(^6\)

In this new concept of the caliphate the jurists and judicial apparatus could no longer be an imagined and amorphous group of scholars dispersed all over the Empire. Not only the organizational aspect of that group had to be defined. If the Ottomans were to claim the leadership of renewal, then they also had to claim that they had, in their core provinces, a well organized body of legal scholars, and the knowledge that could shift the center of leadership to Istanbul, and proof that the

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\(^6\) Fleischer, *The Lawgiver as Messiah*, p. 160.
Ottoman core could become the locus wherein the new balance between the universal sovereignty and universal community of believers would be determined.

This was the rationale behind the formation of the Hanafi legal guild of the Ottomans, as the leading representative body of legal scholars (and scholarship) determining and realizing the new historical consensus of the community of believers (ch. 5).

Also, the position of the head of that guild belonging to the şeyhülislam (Ebu’s-Su‘ûd) was redefined. His jurisprudence, and especially the issuing of fetva, and the evident exercise of *ijtihad* are the main aspects of the change of the scope of (public) authority of that position. During his time in this post several changes can be witnessed; the increased public demand for his fetvas (he issued hundreds of fetvas daily), the establishing of the mechanism of fetva-issuing that included a whole team of people, and redefining the fetva as the means of transforming the facts of life into legal facts (ch. 6).

Simultaneous with and closely related to all these developments was the emergence of a new self-consciousness within the diverse world of the vast Ottoman dominions. While integration of the diverse ethnic, religious and social groups was never the target of legal discourse, the focus of legal interpretations of issues related to that diversity was the definition of the basic identity of the new community. Ebu’s-Su‘ûd’s fetvas mainly focused on determining the beliefs and practices that could not be sanctioned by the divine law. In the impersonal tone and formulaic language of his
fetvas he did not address particular personalities or groups (with the exception of the Qizilbash) but only specific practices and specific acts. His unique fetva about the basic identity of Muslims, however, allowed for the admittance of the diverse beliefs and practices of the conglomerate of people who lived within the Ottoman dominions and in the broader Islamic world of the time.

The unity of this diverse world was better described in the non-legal language of the Ottoman narratives of the later sixteenth century, and throughout Ottoman history. The term ḥuzūr (peace, repose, tranquility) best expressed the principle that kept the larger society together and determined this identity. While on the surface this term expressed the imperative of peace as opposed to turbulence and upheaval, it was the concept that had to be precluded, and was defined by the comparable state of all of the elements of the society. This was not understood only as social comfort and peace, but also as comfort and peace in the daily activities and interests, as well as in the expression of views of those involved in intellectual and literary endeavors, and those engaged in social activism. Only in this way can one explain the development and flowering of various literary genres and the critical discourse of the Ottoman authors of the sixteenth and seventeenth century (ch. 7).

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In his discussion about the lack of constant reformulation and expansion of Islamic law in medieval Islam Fazlur Rahman states that the vast literature of Islamic jurisprudence of the time contained many original and fertile interpretations, but "this
was out of touch with actual legal practice.” He then argues, giving the example of ‘Izz al-Din Ibn ‘Ab al-Salâm al-Sulamî (thirteenth century) who rejected the ban on interest, that the problem was not in a dearth of revolutionary statements but in an amazing shock-absorbing capacity that Islamic orthodoxy developed from medieval times. Thinkers like al-Sulamî “were held in high esteem in orthodox circles as great representatives of Islam, but such statements of theirs as had some radical import were invariably dismissed as isolated (shādhdh) or idiosyncratic and were quietly buried.”

The example of the sixteenth century Ottoman Empire clearly contradicts this view. All of the texts and documents examined in this study bear witness to the strong relationship between legal theory and legal practice.

Since the present study is not a legal history or a study of Islamic law, but rather an attempt toward the historical anthropology of law some explanations of the specific method and chosen terminology have to be made before proceeding with the summary of its argument. As said earlier, a larger part of the texts that will be examined in this study consists of texts that belong to the field of Islamic jurisprudence (fiqh) and the Ottoman kânûn law -- texts that represent the Ottoman legal discourse. This study differs in scope from studies of Ottoman kânûn that claim to examine the relationship between the kânûn and the shari‘a. Since research on this

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relationship belongs to the discipline of jurisprudence, and not to history, the
distinction between shari‘a and kânûn that is defined in terms of distinction between
the sacred or holy law and secular law leaves little possibility for examining the way
in which both function in any real circumstances, in any particular society.

The distinction between the sacred law and secular law explains only the two
areas from which these laws originate; it cannot provide conceptual ground for the
examination of the way in which these two laws function or interact. Historically,
both types of laws have been claimed as state laws. On the other hand, some matters
covered by the sacred law (shari‘a) are sacred only *eo ipso*, i.e. by the very fact of
being a part of the sacred texts. Some matters (such as taxation) are often shared by
the two laws, and this does not necessarily produce contradiction. Determining
contradiction or agreement between customary or dynastic law and shari‘a is
something that belongs to the interpretative authority.

The distinction between shari‘a and jurisprudence (fiqh) has been ignored in
the studies on Ottoman law, and the kânûn law has been left in a vacuum both in its
legal and historical aspects, the vacuum being partially filled by examining of the
non-Islamic origins of this law. The concepts of dynastic and customary law have
proved productive in examining the kânûn law in early Ottoman history, identifying
the nomadic legal traditions of the Ottoman Turks and the way in which they were
able to adopt a variety of local customs. Closely tied to the discussion of the origins
of the Ottoman state, the research has focused more on the content of Ottoman kânûn law than its functioning and social context.

Explanation of the presence of regulations reflecting local custom was initially divided into two main arguments that supported the theses of the Turkish and Islamic, and the Byzantine origins of Ottoman laws respectively. However, already in the early stages of this discussion, beginning with the seminal study by M. F. Köprülü “Some Observations on the Influence of Byzantine Institutions on Ottoman Institutions,” Islamic influence on Ottoman laws and legal institutions was recognized.\(^8\)

In the last several decades the strong interest in Ottoman Kânûn law regarding its political and administrative and even ideological/religious context as well as its legal function resulted in a number of significant studies. In the political context, the special concern that was, in the period of Süleyman’s rule, given to the legal aspect has been examined in the light of this sultan’s contemporary image as protector and promulgator of justice, and creator of law and order. The contribution of jurisprudence, and more concretely of the most prominent jurist Ebu’s-Su’ûd to this image, is seen mainly as providing an ideological and religious support for distinctly secular goals. It is assumed that Ebu’s-Su’d consciously enrolled his legal expertise in the service of the dynasty, with the only gain for the jurisprudence being

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the creation of a climate of religious orthodoxy. This view is shared by the author of
the recent monographic study about Ebu’s-Su’ud.9

The term “religious orthodoxy” was also used in the context of the change of
imperial ideology delineating two distinct phases and orientations in building the
imperial image of Süleyman, one marked by the influence of grand vizier Ibrahim
Pasha (executed in 1536), and the other marked by the influence of Ebu’s-Su’ud, to
whom the introduction and affirmation of religious orthodoxy has been attributed. For
the purpose of this study the term “religious orthodoxy” is not suitable for very
practical reasons. Aside from its very general meaning, the term has no historical
application. Also, in the concrete context of the Ottoman jurisprudence of the period
under consideration it does not allow for the distinction between the jurisprudence of
Ebu’s-Su’ud and that of his opponents, such as Muhammed Birgivi, or Çivi-Zade.
Finally, the term covers religiosity in the first place and implies judgment of
religiosity, either in a general sense (on the level of the whole society or particular
groups) or in regard to particular authors whose texts are examined. Even if, through
the common association of law and religion that is attributed to Islam, an approach to
the interpretation of the shari’a can be seen as orthodox, the term is still too general to
be used to address any particular interpretation.

Defining the work of Ebu’s-Su’ud in terms of service to secular (mainly
political) goals and as representing of a religious orthodoxy in the domain of law

9 Colin Imber, Ebu’s-Su’ud: The Islamic Legal Tradition, Edinburgh: Edinburgh University
implies that the centuries-long Ottoman remembrance of him was merely an uncritical acclamation. It is not my primary goal here to defend or justify the glory that Ebu’s-Su‘ud has received in posterity, but rather to use the opportunity to examine the Ottoman historical memory of Süleyman and his most prominent jurist against the archive of the period that is unique for the abundance of legislative documents as well as works of jurisprudence.

The jurisprudence championed by Ebu’s-Su‘ud represents a case of proof against the largely accepted view of a-historicity of Islamic jurisprudence in the postclassical period. There are very few texts authored by him that bear direct historical references. While these texts are of extreme importance and have already received significant scholarly attention, this scholarly attention still stands in disproportion to the importance that was given to his work by contemporary and later Ottoman authors. Remembrance of Ebu’s-Su‘ud in Ottoman posterity describes him as a jurist who was “perhaps the second Nu‘mân” (Abu Hanîfa)\(^\text{10}\) the lawyer and mujtahid who brought Ottoman kânûn law into agreement with shari‘a.

The historicity of Ebu’s-Su‘ud’s jurisprudence that is declared in Ottoman sources, that are mainly histories and biographical dictionaries, was also taken for granted in these same sources. The reason for this lies not in the difference between the selections of issues that contemporary Ottoman writers were concerned with and those that a modern scholar would like to explore. It reflects the contemporary

opinion that the jurisprudence of the time achieved an exceptional position of
eminence in fulfilling its immanent task: examining the contemporary legal issues
against the ideal of shari‘a. Thus, as determined by the given state of the matter, the
present study represents a search for evidence of what was considered evident.
PART ONE

CONSTITUTING UNIVERSAL SOVEREIGNTY: LAW AS POLITICS
CHAPTER ONE

THE PREAMBLE TO THE Kânûnnâme of Egypt:
THE YOUNG SÜLEYMAN'S MANIFESTO

Following the short and stormy period of the rule and sudden death of his father, who had defeated the other two dominant powers in the Middle East—Mamluks and Safavids—and conquered the core regions of the Islamic world, young Süleyman succeeded to the throne of a vast empire on the verge of disintegration. He faced multiple tasks involved in the challenge of forming his own devlet, with no contestants to fight, since he was the only heir. The preamble to the kânunnâme of Egypt, a unique document written in the name of this sultan, provides a window into the challenges to Süleyman's succession to the Ottoman throne, and represents the political manifesto of the young sultan issued in response to these political challenges, as well as to the imperatives formulated outside the sphere of immediate political demands, and accumulated in the decades preceding both Süleyman's and Selim's rule.

In the late fifteenth, and the early decades of the sixteenth century, both the Ottoman core provinces, and the new territorial acquisitions of the Ottomans, became a highly contested terrain. The mountainous triangle of Eastern Anatolia, Northern Syria and Iraq and Western Iran, long dominated by Turcoman tribal confederations, became
enflamed by the messianic movement of Shah Ismail. The recent scholarly analysis of
the contemporary treatises and historical narratives detects moral panic, the sense of
uncertainty, and strong disintegrating forces in all sections of the Ottoman society of
that time. All of these developments, the roots and causes of which have been hardly
studied, reflect a broader, and dominant sentiment of messianic expectations within the
Islamic world in this period.¹

Acting as a rebel leader, Selim I (1512-1520) succeeded in disassociating himself
from the strong contemporary critiques of the Ottoman dynasty as a spent force. Being a
member of the Ottoman dynasty he could not, of course, rebel against the dynasty.
Rather, he fashioned himself as a rebel against the current Ottoman ways. After
establishing his sovereignty by force, he continued to deal militarily with other
challenges as well. He delivered a strong blow to the messianic aspirations of Shah
Ismail by defeating him in the battle of Chaldiran (1514). Continuously victorious in all
of his military enterprises, he spread his empire over all of the Middle East and
constituted himself as müeyyed min ind Allah, a sovereign never defeated in battle, and

¹ Several works by C. Fleischer are devoted to the subject of contemporary critique of the
Ottomans and the messianic atmosphere: “From Şeyhza Korkut to Mustafa Ali: Cultural origins of
the Ottoman Nasihatname,” *IIIrd Congress on the Social and Economic History of Turkey,
Making of the Imperial Image in the Reign of Suleyman,” in Gilles Veinstein ed. *Soliman le
Magnifique et sons temps,* Paris: *La Documentation Française*, 1992, pp. 159-177; “Seer to the
Sultan: Haydar Remmal and Sultan Suleyman,” in Jayne L. Warner ed. *Cultural Horizons, A
Festschrift in honor of Talat S. Haiman*, Syracuse: Syracuse University Press & Yapi ve Credi
Bankası, 2001, 290-299.
also a sahib kiran, a world conqueror. Nevertheless, throughout his short reign, the
dissonant voices were far from silenced. At the very beginning he faced a rebellion of
prince Korkut. While Korkut declared his disinterest in worldly power, he also identified
the sources of his own, and societal, moral panic in violation of, and disregard for, the
divine law, the oppressive character of the state, corruption of the learned, and alliance
between the Sufis and the military. His was a rebellion of a different kind, disclaiming
the sovereignty of the Ottoman house on the basis of lack of leadership based on Islamic
values. He thus joined the single imperative that permeated the cacophony of the voices
of discontent, the one asking for a new leadership and the establishment of perfect law
and order. Selim, on the other hand, opted for manifest leadership based on military
might.

However, even his own military, at least at the beginning of his rule, was not won
over by the appeal of a warrior. Selim stood helpless in the face of silence of his own
Janissary commanders upon declaring his decision to lead the military campaign against
Shah Ismail, until only one commander of lesser rank stepped out and expressed

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2 On the typology of sovereignty, as laid out in the works of Mustafa Âli, and other Ottoman
authors of the late sixteenth century see c. Fleischer, *Bureaucrat and Intellectual*, pp. 279-283. Âli lists
only three sahib-kirans in the history of the world, but adds that Selim had a potential of becoming
one, had he lived longer. In the documents analyzed in this study, namely, the preambles to the
kânûnnames of Egypt (1525), and Bosnia (1530), both Selim I and Suleyman are given the title of
sahib-kiran. Also, the title appears in the preambles to the kânûnnames of Gelibolu

3 Fleischer, *From Şeyhzade Korkut to Mustafa Ali*, pp. 70-72.
support. He faced strong pro-Safavid sentiment among Janissaries and tribal Turkmen and Kurds of Anatolia, and outbursts of moral panic and strong objections of the sharia-minded against the violations of the divine law, and against his own arbitrariness. The story is recorded about one such courageous protest by the şeyhülislam Zembilli Ali Çelebi Efendi who, upon learning about the sultan’s decision to execute 150 servants of the Imperial treasury, came to the royal court in person requesting the immediate audience with the sultan. Even though the sultan could not suppress his angry reaction to the şeyhülislam’s request to reverse the order, he had to accept the şeyhülislam’s opinion, not because it was worded as concern for the sultan’s salvation (rather than as interference with the affairs of sultanate as the sultan angrily remarked in his initial response), but because Selim could not risk the conflict with the highly respected religious scholar.

Nevertheless, Selim overcame a variety of opposition. His strong military charisma and continuous success in all of his military campaigns, and in particular his defeat of Shah Ismail in the battle of Chaldiran, outweighed his obstinate character and

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4 According to Mustafa Ali, upon assuming the throne sultan Selim gathered the commanding officers of the janissaries at Yenibağçe, and upon explaining the situation with Shah Ismail who was a great and dangerous enemy of the Ottoman state, and his path from the Sufi sheikh to the position of shah, concluded that this problem cannot be neglected. When he addressed his commanders saying “I intend to undertake the campaign against Shah Ismail” instead of loud approval that he expected he faced silence. Even after repeating the war cry three times, there was no answer. Finally, one commander of the lower rank stepped forward and after saying a prayer said: “Our wishes are the same; we are waiting for our padishah’s command.” The commander was given the governorship of Salonika. (Ali, Künh il-Anbar, vol. 1, p. 259, as quoted by Uzunçarşılı, from the MS owned by the author in: Osmanlı Tarihi, vol. 2, Ankara: TTK, 1995, p. 259).

arrogant manners in the age that was awaiting a ruler-saint. He chose to ignore the imperatives formed and informed by messianic expectations, and instead silenced the moral panic by forcefulness and persuasiveness of his military might.

Selim’s sudden death at the peak of his military fame put his son and successor, Süleyman in a very difficult position of a ruler without devlet. The young sultan, who was the only heir to the Ottoman throne, had to fill in the position for which the royal lineage bore little weight.

Prince without Devlet

Selim’s sudden death intensified and reinvigorated the apocalyptic sentiments, and the sense of loss of direction. Instead of dynastic claim, that could be a source of legitimacy for a regional, and limited sovereignty typical of the fragmented world of the post-caliphal Islam, Selim’s devlet was based on the claim to universal sovereignty of a world conqueror.

Süleyman, as the only heir to the Ottoman throne, could not simply inherit the universal dominion of his father. He could inherit the sovereignty of the specific region, i.e. the core Ottoman provinces, or establish himself further by demonstrating success in his own political and military enterprises. His father’s devlet was a unique, personal achievement. It was a socio-political conjuncture brought together by Selim’s personal charisma. Like the previous universal dominions of Cengiz Han and Timur, this universal dominion was not inheritable. Also, in the apocalyptic
atmosphere of the time the importance of lineage as the basis for sovereignty was minimized if not completely lost.

Before examining the imperatives formed by messianic expectation and those formed by the legacy of Selim, it is necessary to examine the concept of sovereignty established by previous Ottoman sultans and the dominant concept of state in the post-caliphal Islamic world. In the immediate post-caliphal period, also defined as the period of medieval sultanates, the state concept signified by the term devlet (Ar. dawlah) developed as a synthesis of Turco-Mongol and Islamic state concept. Sovereignty was justified by the commanding authority (ālu‘l-amr), and the proportions of the people and territory under that authority were determined by the ability of the ruler to constitute himself as an integrator of (political) people, and military and social energies of his time. The semantics of the term (fortune, prosperity, turn, change for the better) clearly correspond to the medieval Turkic term qut (auspiciousness, power, fortune, luck, felicity), and Persian farr (splendor, glory, magnificence), and emphasize the personal qualities of the sovereign.⁶ Thus, devlet of the post-caliphal period was the personal fortune of the sovereign, his turn in power and the manifestation of his ability to bring and hold together, as well as shape a fragment of the universal community of believers in accordance with the public interest.

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⁶ One of the equivalents for the Turkish qut in Mahmūd al-Kashghari’s Divān Lugāt-it-Turk, is “devlet.” Halil Inalcik, “The Ottoman Succession and Its Relation to the Turkish Concept of Sovereignty,” in Inalcik, Halil, The Middle East and Europe under the Ottoman Empire: Essays on Economy and Society, Bloomington: Indiana University Turkish Studies, 1993, p.41.
While royal lineage could corroborate one’s claim to sovereignty, it was of secondary importance. Two *devlets* of enduring dominance in the medieval Islamic world – Ottomans and Mamluks – succeeded, each in its own right, to circumvent the issue of lineage. Mamluks were not a dynasty, but a lineage of slaves that established a model of succession that at the same time represented a model of renewal and recreation of the *devlet* through selection of the most capable leader. The transition of political power among the Ottomans was a process that extended beyond the short period of struggle for succession. Ottoman princes began to develop their *devlets* from the time they were appointed provincial governors. Starting as provincial courts, the princely *devlets* of the Ottomans were formed as princely parties consisting of the princely households and their supporters among the military, *ulema*, and various social groups and networks. The final struggle for the throne was the struggle between the princely *devlets*, and not solely between the candidates for the throne.

Süleyman was urged to reclaim the universal sovereignty of his father by continuing his father’s policy of constant conquest. Selim’s extraordinary military might be set easily into the framework of messianic expectations of the late fifteenth and sixteenth centuries, because it was seen as manifestation of his personal charisma rather than as a product of an elaborated political and military concept. This is evident in Selim’s exclusivist approach to the circumstances opposing the growth of his power as well as in the way he responded to the instances of disloyalty among his officers and servants (kuls). While there is some substance to the modern scholarly argument that
Selim led the politics of militant and exclusivist Sunnism, it must be noted that the Sunni justification of his military actions, while properly based on the methods of jurisprudence, in Selim’s time did not represent a part of a larger discourse independently forming and informing the Sunni Ottoman ideology. It was induced and urged by ad hoc circumstances.

Süleyman came to power in circumstances that differed from the past. He had no contestants to fight both militarily and politically. This deprived him of the traditional path of gaining legitimacy through proving his devlet as chosen by God and the (political) people. Moreover, this deprived him of the opportunity to build his own devlet prior to coming to power, by winning over a significant group of military and ulema that would find their interest in supporting his candidacy.

Later Ottoman historians did not see the circumstances of Süleyman’s enthronement as a disadvantage. Peçevi, for example, writes:

"There is no doubt or dispute that his (Süleyman’s) non-committing of the sin of unlawful bloodshed because of the (favorable) condition that at the time of his enthronement (other) heirs to the throne and majesty were deceased, indicates that he would prosper not only in this world, but in the other world as well."  

Peçevi’s statement not only reflects the later idealization of Süleyman’s rule but also reveals the understandings of Süleyman’s legitimate claim that were

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8 Esnâ-I culûs-I hümâyûnda terâhûm-I verese-I câh ü celâl ihtimâlindan bir bî günâhih hûn-I nâ-hakkîna girilmediği dünyâlari gibi âhireti dahi ma’mur olmasina dâl idüği mahall-I ıştibâh ve cidâl değildir. (Peçevi, İbrahim Efendi, Tarih-I Peçevi, Istanbul: Enderun Kitabevi, 1980, p. 3.)
informed by later developments. First was the belief that Süleyman was, from the beginning, bestowed with divine favor. Second, by the end of the sixteenth century the dynastic mandate of the Ottomans to universal sovereignty was firmly established through a series of developments that will be further discussed in this study: the formation of an Ottoman legal synthesis; the transformation of the imperial culture through the formation of a new, universal self-awareness of the Ottomans; and the emergence of a diverse, yet united social space that successfully appropriated the cultures and values of the post-caliphal Islamic world.

Among contemporary writers, perhaps the strongest voicing of the opinion that Süleyman’s rule began in most favorable circumstances is that of Lütfi Pasha, who was Süleyman’s grand vizier from 1539 to 1541. He sees Süleyman as heir to a perfectly ordered empire with all internal and external conflicts resolved.\textsuperscript{9} Writing under the strong impact of the living charisma of Selim, Lütfi Pasha’s tone reflects more his concern about Süleyman’s ability to live up to the legacy of his father, than whether or how he would leave his own imprint.

While, at the time of Süleyman’s accession, the imperatives of the age - i.e. renewal and reform - were clearly articulated, there were no indications that the young sultan would be the one to bring them to realization. Süleyman’s first goal was to renew the European conquest, i.e. the \textit{ghaza}, and thus use the holy war as a platform to reintegrate Ottomans around the cause that none of the political and religious factions

\textsuperscript{9} C. Fleischer, \textit{The Lawgiver as Messiah}, p. 163.
could dispute. His early military successes, the conquest of Rhodes (1522), and splendid victories on the Danube (1521) gave him the opportunity to present his devlet as the continuation of the Ottoman state as regional military power. However, his early victories and especially his defeat of the Hungarian king in the battle of Mohacs (1526), could not compensate for the upheavals in the other parts of the Empire. Instead of fortifying the new territorial acquisitions in Hungary, the military forces had to be redeployed to pacify a number of provinces in upheaval. Anatolia was boiling with pro-Safavid zeal. Rebellions under the leadership of Şah Veli, Veli Halife, Domuz Oğlan and Kalender Çelebi all started in the time of Süleyman’s Hungarian campaign. Egypt, the most important new territorial acquisition of Selim, was slipping away due to the repeated inability of Ottoman governors to integrate this province. Finally in 1523, Hâin Ahmed Paşa, who was appointed governor of Egypt, declared independence from Istanbul.

The integration of Egypt became the most urgent matter and the crucial test for the young sultan. In 1524 Süleyman sent an expedition led by the grand vizier Ibrahim Pasha to (re)establish Ottoman authority over Egypt. This was not merely a military expedition, but included a team of most capable administrators of the Empire, led by the imperial chancellor Celâl-zâde Mustafa Bey, whose assignment was to address the issues that were the source of repeated upheavals and resistance of the remaining Mamluks and Bedouin tribal leadership as well as the Ottoman subjects: the legal status of the provinces, military matters, and most importantly, taxation.
The preparation of the Ottoman statute (kânûnname) for Egypt was indeed the most formidable challenge. This was a document that had to fulfill the task of proving the superiority of Ottoman legislation over the existing laws of the Mamluks and thus open the way to the integration of different social groups and political interests, of Arab tribes and their leadership, as well as Mamluks, into the Empire. This document was issued in the name of the sultan, but its author was Celâlzade Mustafa (d. 975 H./1567 C.E.). He employed all of his knowledge and sensibility to provide the young sultan with the manifesto that would address not only the crucial issues related to the integration of Egypt, but also lay out the claim to universal sovereignty. With this document Celâlzade Mustafa set out to place Süleyman in the nexus of the conjunction that was largely in the making outside the Ottoman political and military arena, the universal socio-political conjuncture comprising the entire Islamic world.

Preamble

In many of its aspects the preamble to the Kânûnname of Egypt represents a unique text. It is the earliest text that bears witness to the emerging political and legal discourse of the Ottomans, the discourse that would become fully articulated in the second half of the sixteenth century. While conceptually and linguistically this text lacks the refinement, expertise and focus of later Ottoman legal discourse, it does represent a relatively well-prepared political and legal manifesto. Its literary, rather than legal, tone

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10 At this time Celâlzade Mustafa (b. 1491-1492), also known as Koca Nişancı, was appointed reisulküttab.
reveals the aspirations of its author to impress the learned among the Mamluks. The text was obviously meant for publication.

The early Ottoman kânûns were not, as a rule, introduced by preambles. The earliest Ottoman preambles, are those introducing the kânûnnâmes of Nigbolu (1516), and Trablus Şâm from 1519. When compared to these preambles, and a large number of preambles introducing provincial laws issued later during Süleyman’s rule, the preamble to the kânûnnâme of Egypt appears unique in the following respects. First, this preamble’s reception and readership was larger than that of the province to which it was issued. This is evident from the number of copies of it as an independent text that have come down to us. Unlike other preambles, it was not only the introduction to a provincial kânûnnâme preserved in one copy as a part of a provincial kânûnnâme followed by a provincial tahrîr. Second, its content is not limited to laying out legal principles, or explaining legal changes and regulations contained in the subsequent legislative text. Third, this preamble’s most distinctive feature is its literary style, and its dramatic composition. Here the story is told that unfolds as historical drama the climax of which is the appearance of the saint-ruler and the establishment of just order in the

11 Like the hükms, and fermanş, from which they were derived, the early kânûns did contain a short introduction consisting of invocatio and the statement of sultan’s authority.

12 BOA Maliyeden Müdevver, No: 11, p. 2.


14 Akgündüz lists five copies in: Suleymâniye Library (3), Topkapı Saray Library (1), and Bibliotèque Nationale (1) (See Akgündüz, Osmanyı kânûnnâmeleri ve Hukuki tahlilleri, vol. 6, p. 82.).

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province of Egypt. Another novelty is that, in the introductory part of the preamble, the sultan himself speaks about and elaborates on issues that were previously the provenance of the advice literature.

The preamble begins with the *invocatio* in Arabic, followed by the statement of sovereignty based on the dispensation derived from the Qur'anic verse on the worldly authority of the *âlu l-amr* and the divinely facilitated concordance between the ruler's authority to command and prohibit, and his army and the *ulema*. This statement of Sûleyman, which for the first time includes his claim to caliphal sovereignty¹⁵, also defines the caliphate as the perfect, divinely facilitated conjunction of the commanding authority (*âlu l-amr*), the military power (the sword), and the authority of the learned (the pen).

In the next statement Sûleyman both claims and reaffirms the Ottoman legacy, describing it as a continuous righteous path of a dynasty involved, at all times, in legislative activity in full accordance with the sultanic/worldly authority, following the methods allowed by the holy law, with approval and advice from the learned. The quoting of the hadith approving the inclusion of custom (*örf*) into Islamic law is strategically placed within this statement that has the character of a small treatise about the nature and importance of the sultanic authority. The purpose of this statement is explicit. While the sultan initially claims the caliphal authority he includes the legacy of

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¹⁵ Sûleyman’s claim to caliphal sovereignty has been dated into 1541, when in the preamble to the kânûnname of Buda the claim was formulated by Ebu’îs-Su’ûd (Colin Imber, *Ebu’îs-su’ûd*, p. 104-105).
his predecessors on the Ottoman throne to support his claim. One characteristic of the
authority of the Ottoman sultans of the past is emphasized: the necessity of issuing laws
for the practical purpose of running the affairs of the domain. Also, one important
characteristic of the kânûn law is emphasized: its effectiveness in providing a just order
and equity. With this statement Sûleyman also declares his intention to follow in the
footsteps of his predecessors, while at the same time claiming a different kind of
sovereignty.

The aim of the text that follows - the statement about the legitimacy of the house
of Osman - is less evident. In a strongly reprimanding tone addressing human crudeness
and incapacity, warnings are issued to all who compromise the belief in the unity of God
and the unique position of his last prophet. What is evident in this text is the aim to issue
warning to those who abandoned humility and were led astray by various promises of the
realization of the messianic expectations in this time. Although no specific groups or
individuals are named it is quite clear that these warnings are aimed toward radical
fundamentalists within the Empire (hâricis) and various groups belonging mainly to the
Safavid following (rafizis).

The concluding part of the introduction goes back to the issue of the sultanic
authority. Another claim, based on the hadîth referring to the sultan as the Shadow of
God on Earth is elaborated. In this capacity, the sultan is the one who is called to provide
pure justice and equilibrium, and unite and provide safety for all classes of being. Here
again his legislative authority is emphasized, but now in the capacity of providing justice
and security, rather than merely the necessity of running the affairs of the dominion. Thus the Ottoman sultan occupies the position of authority in all capacities of the temporal power: as commander (âulu’l-amr), as legislator of the existing practice in accordance with the hadith about the value of custom, and in the capacity of the sultan as shadow of God on Earth, i.e. the guarantor and protector of peace and security.

The first part of the main text is devoted to the history of the debates and difficulties induced by the apparent conflict between religion and worldly affairs in general, and the difficulties experienced by the worldly authorities while dealing with the affairs of religion (din) and the state (devlet). This short historical overview focuses on the authority of the rulers who alone had to resolve the “compelling situations” when it “was not possible to cut dispute and opposition with the sword of the tongue of saints of the sacred law (shari'a).” Unlike the legal authorities, the Islamic kings and commanders of the past had to resort to the enforcement of the laws, and secular punishment (siyâset), in order to strengthen the authority of their orders and prohibition. The statutes (kânûns) are likened to the lead that welds the religion (din).

Here again, the Ottoman dynasty, with its history of well balanced exercise of authority and observance of the holy law, is singled out. The Ottomans occupy a unique position among other lineages. Their following of the example of the Prophet and the early caliphs, their well-tempered swords and measured use of force, were bountifully and continuously rewarded by divine favor.
Furthermore, the preamble states that the *noble statutes* (*kânûns*) of the Ottomans represent a ready legal system perfected through legal interpretation and in harmony with the divine law (*shari’a*). By producing such a legal system and just method, the Ottomans, unlike any other dynasty in past and present time, paved the way for the realization of the universal dominion. The state of congruence between the divine law and the royal statutes is also manifested by the consensus of the learned. Thus, the "noble statute that supports the flourishing divine law" is already accepted by the whole world, and because of its superiority to other worldly law it can silence "those who are the most contentious enemies."

These lofty statements are clearly not just political rhetoric. When talking about the "noble statutes" the author, Celâlzâde Mustafa refers to the product of his own significant work in this field. He was the compiler and systematizer of at least two redactions of the Ottoman *kânûn* law, during Selim’s and Süleyman’s rule.¹⁶

By these statements the Ottoman realm is declared the locus of the new sovereignty, the only realm ordered in accordance with the divine law and equipped with the knowledge and methods to bring perfect order to the world that already recognizes its superiority, and to eradicate the evil and erring sects. The Ottoman sultan is presented as "the fifth one after the four righteous caliphs, and the eleventh one after the ten Companions who were given the good news of paradise."

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¹⁶ These codes of laws, often referred to as "general *kânûnnâmes,*" will be discussed in more detail in the chapter "The *kânûn* law before and after Süleyman."
From this point the dramatic tension rises with the introduction of Selim I, the great conqueror and improver, and the cleanser of the surface of the material world from the "dung of oppression and tyranny" and the "followers of pernicious innovations and vanity." He is shown as the chivalrous shah who fights and defeats the forces of darkness in the perfect manner of a chess player.

The scene of the world darkens with the death of Selim at the height of his efforts to take over and regulate "the affairs of both the inherited dominions and the acquired dominions." Dawn arrives with the good news of the ascendance of the heir to the Ottoman throne, the arrival of the "expected one" who is the emperor of the age (hazret-i Hodâyegân-i zaman), ruler of the spiritual world, sultan of the celestial throne, possessor of the moral qualities of the prophets, saint above all saints, whose face resembles the shining sun.

*Süleyman's saintly sovereignty*

In the verses depicting the arrival of the young sultan, the image is used of a sacred nightingale, the bird that announces the breeze of renewal and eternal grace. He is also a new and colorful rose in the garden of caliphal honor, with the attributes of victory (its color), and time (odor). These verses introduce Süleyman as both the spiritual and temporal ruler. They are followed by a list detailing the position of planets within the auspicious constellation of which Süleyman is both master, and
embodiment of each planet that forms it. The list continues by adding to his attributes the virtues of the prophets and saints.

This is certainly not the only text ascribing saintly identity to Süleyman, but it predates other texts.\(^\text{17}\) Also, this text bears the “seal and signature” of Süleyman, and while it is not authored by the sultan himself, it is written and issued in his name and under his authority. This reopens the question posed by C. Fleischer in his study of the relationship between Süleyman and his geomancer Haydar-ı Remmal, i.e. whether Süleyman himself believed in his eschatological identity, or at least participated in crafting the “very specific messianic/saintly image to be projected to Muslim, Christian, and Jewish audiences alike”? In the context of Fleischer’s study of both Haydar’s and Mevlana ʿİsâ’s work, another question is asked: that of the reasons for the apparent swiftness in change of the Ottoman sovereignty from Selim as “last conqueror of Egypt, the Roman King of the north to his son as sahib kiran, axis mundi, and eschatological emperor who reunites in his person temporal and spiritual sovereignty over the world, foretold to issue from the house of Osman.”\(^\text{18}\) The

\(^\text{17}\) There are several studies examining Mevlana ʿİsâ’s Câmiʿ al-Meknîndt (The compendium of Hidden Thing), the role of Süleyman’s geomancer Haydar-i Remmal, the influence of the apocalyptic literature in the period between the thirteenth and sixteenth century (notably the works of Ibn Arabi, ʿAbd al-raḥman al-Bistâmi, and Yazicizade Ahmed Bican) and ephemera in the works of a number of Ottoman authors of the sixteenth century, such as Taşlıcalı Yahya Bey. These studies include previously mentioned works of C. Fleischer and the study by Barbara Flemming “Sahib-kiran und Mahdi: Türkische Endzeiterwartungen im ersten Jahrzehnt der Regierung Süleymans.” (In Between the Danube and the Caucasus, György Kara ed., Budapest: Akademiai Kiado, 1987, pp. 43-62).

\(^\text{18}\) C. Fleischer, Seer to the Sultan, p. 295.
preamble to the kânûnname of Egypt bears another testimony to this shift, and moves its date further back to the year 1525.

While it is clear that Sûleyman accepted his eschatological identity, the preamble offers a number of possibilities to answer the question of whether he believed or at least participated in crafting his saintly image. If we approach the part of the preamble that announces and elaborates Sûleyman’s claims to dual (spiritual and temporal) sovereignty as a high act of the drama evolving in the aftermath of Selim’s death, then his apparent absence as a character cannot serve as a proof of his exclusion, or passivity. While, except in the introductory part, the sultan himself does not speak he is, of course, spoken about, and more importantly, spoken to. Thus, as I intend to argue further, his absence also functions as a part of the dramatic composition.

Conspicuously, the saintly identity of Sûleyman is crafted by the main narrator/author of the text, Celâlzâde Mustafa. While recent studies of the messianic movements in the broader Mediterranean basin, and in the Ottoman lands and the Middle East in particular, leave no doubt that messianic zeal and millenarian belief informed the political projections of the time, Celâlzâde’s close ties with the key figure of the apocalyptic prognostics: Haydar-i Remmal, suffice to trace the particular path of the messianic lore from the strong, if not prevailing, sentiment of the time into imperial ideology.19 The swiftness of change is not surprising if seen as the final, and

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most visible, tremble of the Ottoman socio-political organism under the overflowing surge of messianic zeal,

While in Celâlzâde’s narrative, the voice or reaction of the sultan is absent, it is soon introduced by a new character who speaks in first person: Ibrahim Pasha.

Ibrahim Pasha’s first-person narrative follows the announcement and elaboration of the dual sovereignty of Süleyman to describe the sultan’s reaction to Selim’s death. The sultan’s deep mourning and lack of initiative induced Ibrahim to address the sultan with admonition and almost order him to overcome his sorrow and assume his imperial and caliphal position. Ibrahim’s speech is a complete opposite to that of Celâlzâde. Its language is a simple and frankly spoken word of a soldier and loyal friend. The lofty style of the educated and sophisticated bureaucrat Celâlzâde is replaced by the arrogant and somewhat boasting tone of a self-made man (the contours of arrogance for which Ibrahim will eventually become known, which will earn him a number of enemies, and ultimately cause his execution are already evident here). What Ibrahim’s blunt speech shows is that the sultan, stricken by loss, is not aware of the “plot” to promote him into a transcendant sovereign.

The sultan’s hesitancy, however, may not be a sign of his unawareness of the schemes formulated by Celâlzâde. After all, even though the young sultan may not have been, at this moment, fully in charge of his own court, because of his specific position, he could not have been excluded from the making of the scenario of the evolving drama. While the sultan is presented as the main character of the scenario it
is clearly necessary that he remain removed from the scene. His image is crafted by means other than voice and physical appearance. He is the stage-lighting and overarching non-physical image of the dramatic scene.

It is difficult to discern both Süleyman’s and Ibrahim’s real historical personalities behind the dramatic structure and carefully staged scenes that introduce the new concept of sovereignty. These scenes, however, serve only as a prelude to the new ones in which the young sultan appears as the master of his fortune, and defines his devlet, and his friend is transformed into a new and dominant character: the sultan’s alter ego.

*The perfect law and the perfect slave*

The very appearance of the resolute and intelligent ruler-moon takes the spotlight at the scene of the new, universal dominion and makes Istanbul envied of the Ethereal Sphere. The classes of those forming the devlet: commanders, notables and imperial servants all surround the sovereign like a halo. Thus, the young sultan’s splendid appearance itself has the effect of reordering the world in the perfect order resembling the celestial one. Thereupon, Süleyman takes an active role and summons the commanders and notables to interview them about the urgent matter of consolidating the empire.

Even though the whole devlet of his father lined up (or, in the language of the preamble, around) in support of the young sultan he still had to redefine the structure
of power and put the machine of political power and the universal dominion of his own into motion. Seeing that the military and administrative could not provide more than loyalty the sultan, at the peak of the drama, makes the crucial decision and defines his devlet as the conjunction of the perfect law and the perfect slave. Thus he introduces the concept of absolute power exercised through the grand vizier who is his alter ego. From this point on, the scene of the universal empire becomes dominated by the grand vizier and ordered by the Ottoman laws.

Describing Ibrahim Pasha’s natural talents, and the ways in which these were nourished and molded and shaped by the sultan to form a perfectly loyal, capable and wise alter ego of the sovereign, as well as his inauguration and taking over and running the affairs of the state, occupies the central place in the preamble. Less attention is given to the other instrument of Suleyman’s power: the laws. Even though at each strategic point the superiority of the Ottoman laws is emphasized, in the main body of the preamble the laws are not further discussed except in the text following Suleyman’s decision to specify the substance of his devlet. The reason for this is obvious: the cumulative body of the Ottoman laws was already described in the introductory part of the preamble as the “lead that welds the religion” and the system that had been continuously interpreted to comply with the divine law. Still Suleyman does more than just acknowledge the kanun law and declare it one of the two main coordinates of the substance of his devlet. He discovers that the kanun laws have been abandoned, “erased from the page of Time” so they needed to be recorded again.
Moreover, he realizes that the "sickly disposition of the dominion" could only be cured by narrating the "kânûn and interpretation of the (past) centuries in summarized way".

The second remedy was to entrust "the reform of the state of the world" to a capable grand vizier. Ibrahim's appointment is not presented as a result of the sultan's own preference, but the appeal of public opinion that recognized in Ibrahim the perfect slave, and the most capable of the sultan's servants. Here, similarly to the recognition of Süleyman as the "expected one," the drama evolves on two levels: one reconstructing the spiritual genealogy of the ruler/saint who, like his prophetic namesake Solomon should be accompanied in his endeavors by the wise vizier, Asaf; and the other constructing the new universal empire that no longer could rest upon the old military infrastructure and commanding cadre (which could not come up with the remedy for the sickly disposition of the empire) but on the loyalty and wisdom of the unspoiled and uncorrupt slave. The only individual fitting the role of the perfect slave is recognized in the persona of Ibrahim.

The narrator lavishes Ibrahim with lauds. He is presented as the slave of unquestionable loyalty, raised in the royal household, whose will is identical to that of the sultan, and whose wisdom is cultivated and developed solely for the purpose of service. While Ibrahim's natural talents, for which he was chosen as the sultan's most intimate friend, are emphasized, everything else (including his name Ibrahim/Halil)\(^{20}\)

\(^{20}\) The play with the metaphors derived from the Qur'anic references to Ibrahim's namesake, the prophet Abraham at one point goes as far as to refer to the friendship between him and Süleyman
is presented as the product of careful education. While the preamble shows Ibrahim as the creature of the sultan, it must be noted that he was also, in a way, a disciple of Celâlzâde who helped him at the beginning of his appointment to the position of grand vizier, while he was inexperienced in government.  

While the sultan is presented as the possessor of saintly and prophetic attributes, Ibrahim is shown as the possessor of the attributes of the most learned figures in history such as Asaf, Plato, Aristotle and Galen.

The Ibrahim who dominates the affairs of the world is quite different than the raw soldier who addressed the sultan with sincere yet crude speech at the time of his succession to the throne. When Ibrahim addresses the sultan for the second time, with the plan of the Egyptian expedition, he is the personification of the sophisticated Ottoman bureaucrat, educated and eloquent. Also, he acts as an independent actor, who presents the sultan with an idea of his own, and offers to pacify and integrate the rebellious province by first collecting intelligence about its affairs and then including his findings into a legal code based on, and in congruence with, Ottoman kânûn.

Upon hearing Ibrahim’s proposal the sultan withdraws to contemplate, and responds in favor only after careful consideration and hesitation. While the sultan’s withdrawal and hesitation before making a final decision about the expedition may be another element of the dramatic composition serving to raise tension before the

epilogue of both the ongoing drama in Egypt, and the crucial test of the superiority of
Ottoman justice and Süleyman's universal sovereignty, the latter aspect of the drama
involved very real concerns. Indeed, for Süleyman, the outcome of the Egyptian
expedition was to become decisive regarding the confirmation of his claim of
universal sovereignty. Unlike the Safavids and the kizilbash of Iran who competed
with the Ottomans through religious propaganda and military imposition of their own
universal claim, Mamluk Egypt was an established and stratified socio-political
organism, with the legal system long in function. The struggle between the legacy of
the "sultans of Rûm" and the "sultans of Egypt" could not be resolved militarily.
Mamluk Egypt had already been defeated and conquered by Selim, but had yet to be
integrated into the Ottoman Empire. If the Ottomans were to prevail they had to avoid
further antagonizing the considerable and still influential remnants of the Mamluk
apparatus, Bedouin leaders (şuyûh-i 'urbân), and the large urban conglomerate of
Cairo.

Indeed it was very difficult to "bring the good news" to all factors involved in
Egyptian politics, for their interests varied. News of the new universal and saintly
sovereign had to be accompanied by proofs of his justice. While a large part of the
text is devoted to a critique of the "Circassians"- the fallacy of their laws, and
especially their mistreatment and exploitation of the subjects - it is also made clear
that the Ottoman failure to integrate and pacify the province ensued from the
"laxness" of the Ottoman governors in Egypt to the region. While applying orders
from the capital they failed to understand and evaluate the conditions of the region, its specific internal problems, and establish order *appropriate* to that region and thus prevent anarchy. 22

The next scene follows Ibrahim armed with the sultan’s decree and the Ottoman laws, and accompanied by capable and learned administrators. The journey to Egypt is depicted as both an actual sea fare and as a parable of the Biblical/Qur’anic journey of Noah, with the latter dominating the scene and defining the action and the characters. The majestic arrival of the expedition to Cairo is depicted as an assembly of all parties involved, loyal and rebellious, Arabs and Mamluks, rich and poor, all occupying their allotted space in perfect order.

*Epilogue*

The final scene of arrival in itself represents the epilogue. When the Egyptians come to meet Ibrahim and his shining company of selected soldiers and capable administrators, their position in the new order is already defined. The guilty ones are there to receive punishment, the loyal ones are there to receive rewards, and those in need of protection are delivered from oppression by the sheer presence of the Ottomans. The new laws of Egypt are presented to all. Conspicuously, in these new laws, the old Mamlûk law has survived. Sharp critics of the Mamlûk laws, the Ottomans nevertheless refrained from replacing them entirely. Instead, the criticized

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22 Appendix A, p. 199.
innovations were adopted provided they did not harm those in need of protection, the subjects.

By redefining, reducing, and then absorbing the ḍurf (legal practice, custom) of the Mamluks into the Ottoman legal system the sultan demonstrated the strength and superiority of the Ottoman ḍurf, thus for the first time demonstrating the appropriative character of his legal policy that will become the hallmark of his rule. In this document he also, for the first time, demonstrated how he planned to face the challenge of transferring the epic material of his father’s victories into an ordered and recorded system that he set out to create, not just in order to claim the legacy of his father for himself, but also to justify his own claim of divine appointment.
CHAPTER TWO

THE KÂNŬNNĂMES FOR THE RUMELIAN PROVINCES FROM 1530’S: IBRAHIM PASHA’S FAILED ATTEMPT TO PURIFY THE KÂNŬN LAW

The project of integration, and legal and political conceptualization of the new model of the universal empire, so successfully introduced in the preamble to the Kânŭnnâme of Egypt, experienced a serious setback in 1530’s. Both major components that were to hold together the universal devlet of Sûleyman - the perfect law and the perfect slave – became actually disputed as Ibrahim pasha changed the course of legislative policy. Another set of imperatives formed under the guidance of the rival revivalist movement, reminiscent of those advocated earlier by prince Korkut resurfaced temporarily to dominate Ottoman legislation and politics through the actions of the grand vizier.

While accepting the idea of Sûleyman’s universal sovereignty and caliphal authority this movement sought to redefine the principle of integration of the new empire and the renewal of Islam. Contrary to the messianic revival that sought to appropriate the existing legal culture(s) and integrate diverse social and political groups, this fundamentalist revival advocated a purist legal interpretation that sought
to purge the Ottoman legislation from non-shari'a laws and resolve differences through military conflict.

What informed the late fifteenth and early sixteenth-century critique of the Ottoman legal system was the view of almost complete lack of vital exchange between the legal theory and legal practice, and even the lack of memory of it. What horrified scholars like prince Korkut, who was aware of, and alarmed by some practices widely acknowledged as erroneous was (what they saw as) the lack of legal expertise and ignorance of the Ottomans.¹ When he expresses his resignation he speaks from the position of the Ottoman prince. It is the Ottoman throne that became so hopelessly imbued with the decadence and ignorance of the Ottoman ways, that no ruler who succeed to it can be a good ruler and a good Muslim. While Korkud believed that the system was corrupt beyond repair, and that it could only perpetuate itself. If any remedy is implied in Korkud’s Summons, it is the cutting off the illicit practices. This was the remedy that Ibrahim Pasha chose to apply.

Several legal documents issued in the name of Suleyman in the period between 1530 and 1537 introduced a number of radical changes in the Ottoman kanun law, changes that can be defined as the purification of the Ottoman kanun law. These documents, and the change they introduced have received little scholarly attention so far.² Ibrahim Pasha’s attempt to purify the kanun laws of Rumelia was


² The change in the status of Vlachs is discussed by N. Filipovic in Historija Naroda Jugoslavije (Zagreb, 1959, p. 134) and in S. Buzov, “Vlasi u Bosanskom sandžaku i islamizacija.”
also silenced in the contemporary, and later Ottoman accounts of Süleyman’s rule.

The only memory of the project that came down to us consists of the aforementioned legal documents ordering and elaborating the purification. These are several *kanūnnāmes* for various provinces in the European part of the Empire (Rumelia), and two preambles - one to the *kânūnname* of the Bosnian province from 1530, and the other to the *kânūnname* of the province of Hersek (Herzegovina) from 1532.

To this group a sultanic decree, presumably ordering the levelling (*tesviye*) of the status of the *reaya* (the tax paying subjects), should be added. It is certain that such a decree was issued, either as a document or in oral form, because some of the documents that will be discussed here make references to it. However, I have not been able to find such a decree so far.

*The Preambles and Kânûns*

The preambles to the *kânûnname* of Bosnian sancak and to the *kânûnname* of Vlachs of Hersek have the structure of an imperial *ferman*. Most of the structural elements of the *ferman* are expanded while some such as *narratio/nakil* and *sanctio/teʾkid* are omitted or modified. Also, the *intitulatio/ûnvan* is not placed immediately following the *invocatio/dâvet*. Instead it follows the *dispositio/emr*. The modification of its structure can be explained primarily by the new function of the

*POF*, 41 (1991); 99-111. Another scholar claims that the change had no significance because “the new taxation was not heavier than the old one,” and that “the only major change has affected the record terminology.” (N. Moacanin, “The question of Vlach Autonomy Reconsidered,” *Essays on Ottoman Civilization: Proceedings of the XIIIth Congress of the CIEPO*, Praha: Academy of Sciences of the Czech Republic, 1998, p. 276.
intitulatio. Here it is also the statement of authority, and therefore it follows the legal decree (disposition).

In the Bosnian preamble, immediately following the praises to God and the Prophet the renewalist agenda is revealed in the reference to the administrative practices and taxation of the early Muslim community. The description of the early efforts of the Prophet of Islam, his family, and companions to administrate provinces and regulate the taxation reflects, both in language (the terms used), and in order of exposition, the administrative system known to and applied by Ottomans. Thus, the engagement of the family of the Prophet, and his companions in the administration and taxation of the early Muslim state is described in terms of compiling tax registers, and regulations about reaya and beraya, military fortresses, and categorizing provinces and land units.

The use of Ottoman terminology is even more surprising since this preamble is written in Arabic. The use of Arabic to convey the imperial order addressing the Bosnian Ottoman subject reveals no practical purpose. Rather, it serves as a part of a broader statement: that of the new, admittedly more shari'a minded legal policy of the Ottomans that is promoted, inter alia, by the changes introduced in the preamble. It also reflects the process of seeking the appropriate linguistic medium that would, in itself bear the weight of importance and power of persuasion.

In the preamble to the kânûnâme of the Bosnian province the order is announced that abolishes the special legal status of the “Vlachs, martoloses, ciftlikçis
and various other groups," and apportions the taxes of cizye and haraç on them.

Until 1530 Vlachs and Martoloses, who were mostly Christians, did not pay cizye because they performed military services for the Ottoman army. Instead of haraç Vlachs paid a number of other taxes in accordance with their pastoral economy. The çiftlikçis, i.e. the holders of the mukata'alı çiftlik,\(^3\) on the other hand, did not pay the land tax of haraj in the form of a fraction of produce (either in money or in kind). Instead they paid their taxes in a lumpsum. In 1530 all of this was abolished and these groups were ordered to pay cizye and haraç like the rest of the reaya. The preamble only gives the statement about the taxation of the aforementioned three groups, without referring to it as a change, and without referring to their previous status, which had been regulated by the kânûn law from the beginning of the Ottoman rule in the region. The only reference to their past situation is the statement that these groups were previously "left out of registers" (hâric ez defter). This however, is not accurate, for Vlach groups, Martoloses and the muqâta'alı çiftlik had been recorded in previous tax registers of the Bosnian sancak.\(^4\) It is possible that in the early tax registers of Bosnia and other Rumelian sancaks some Vlach groups, some Martoloses, and çiftlikçis may had been left out of the previous tax registers for a variety of

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\(^3\) For the analysis of this category of çiftlik see: Halil İnalcık, "The Ottoman State: Economy and Society, 1300-1600," In: İnalcık and Quataert ed. An Economic and Social History of the Ottoman Empire, 1300-1914. Cambridge: Cambridge University press, 1994. pp. 139-140.

\(^4\) The earliest record of Vlah population in this sancak (province) appears in the İsmâl Defteri from 1469. (İstanbul Belediye Kütüphânecesi, No: 0-76). Vlach groups were also recorded in the tax registers conducted in 1485 (BOA TTD No. 18) and 1489 (BOA TTD, No. 62).
reasons, mainly because of their absence at the time of registration\textsuperscript{4} Thus, the only pretext for the change is an assumption made by the legislator, without a legal explication. Once again, it must be noted that the apportioning of the cizya and haraç taxes on the groups in question is not even presented as a change, but only as a part of their inclusion into registers.

The existing Ottoman laws regulating the status and taxation of these groups belonged to what Ottoman legal texts refer to as “old Ottoman kânûn” (kânûn-I kadîm-I Osmaniyyân), the same body of Ottoman legislation that Celâlzâde praised so highly in the preamble to the kânûnnâme of Egypt. They consisted largely of the adopted legal practices of the pre-Ottoman Balkans. If the aim was to purge non-Islamic, pre-Ottoman legal practices, then the question must be asked of the reasons that urged Ibrahim to do so at this particular time.

Very soon, however, due to reasons that were not explicated, both the previous status of one of the groups, and some justification for its change had to be pronounced. This was done in the preamble to the kânûnnâme of the Vlachs in the province of Hersek, where a different tone and languages is used by the legislator.

This preamble leaves no dilemma about the reasons for abolition of the special status of Vlachs. In a careful and detailed justification of the change in their status, first the reference is made to their previous legal status, established by Mehmed the

\textsuperscript{4} Vlachs could be absent because of their seasonal movement, or, like Martoloses, because of joining military campaigns. The holders of \textit{mugâta 'ali çiflik}, on the other hand, had no obligation to live on the leased land.
Conqueror upon the conquest of the region (1473). Without an explicit critique of the laws of Mehmed the Conqueror the new principle of levelling (tesviye) of the status of all reaya is introduced, and referred to as the sultan’s order and command. Thus, the reason for change, aside from the commonplace aim to protect the reaya and make them “prosperous and tranquil under the guardianship of kindness and in the shade of protection,” is Ibrahim Pasha’s personal decision and anxiousness “to abolish the taxes that were previously apportioned to the Vlachs of the mentioned province” in compliance with the sultan’s order and the manifest law (kânûn-i munîf).

Within the final explanation of the way in which the change would be applied and the new status would be assumed, the legislator introduced a new set of terms that were, surprisingly, all prefixed by a term from the pre-Ottoman legal practice of the region. The preamble states that the status of Vlachs would be made equal with the status of serfs (surf reaya) in accordance with the law of serfs (surf kânûnû) that is recorded in the serf register (surf defterî). In the pre-Ottoman, medieval Balkan laws, the term serfs or Servi denoted one of the two main classes of subjects, those engaged in agricultural economy, in contrast to Vlachs who were pastoralists. 6 Thus the change that began with a preamble written in Arabic, introducing the sharf’a taxes without even referring to the Ottoman legal practice they were to replace, was followed through in the document written in Ottoman Turkish that, while giving little

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6 This division resembled somewhat the medieval Iranian division between the Tajiks and Turkmens, only it did not apply to the elites.
attention to existing Ottoman laws, resorts to the use of foreign, pre-Ottoman
terminology to explain the change.

This apparent inconsistency could be easily attributed to Ibrahim Pasha’s lack
of legal expertise. It could also be seen as an attempt to ensure the success of the
change by using language familiar to those for whom the law was intended: the
Vlachs. Indeed, there are indications that the legislator, now more than two years after
the introduction of the change, became aware of the difficulties involved in applying
of the unified taxation, and attempted to win over the Vlach population by
significantly reducing the amount of cizye from 90 to 30 akçes. However, using
language familiar to the local population could by no means soften the harshness of
the change in their status. For despite all the rhetoric of concern for the well being of
the reaya, and the claim that consultations and examinations of the possible benefits
preceded the formulation of the new law, the preambles announced to the Vlachs of
Bosnia and Hersek that their centuries-old legal status and, more importantly, their
way of life was to be changed from pastoral to agricultural.

More importantly, the legislator used the above terminology to clarify the
matter that could not be clarified otherwise, rather than to “win over” the Vlachs. In
this document the term serf (surf) is introduced to describe the distinction for which
the Ottoman terminology did not have an equivalent. The term reaya explained the
Ottoman social contract and not the economy on which the reaya (subjects) sustained

[7] The cizye was apportioned in three amounts, the highest being 30 akçe, medium 25 akçe, and lowest 20 akçe.
themselves. Thus to *reaya* belonged all those who provided the revenues and to *asker* those who provided service for the state. The term haraç *güzar kefere* (the land tax-paying infidels) that is also used in the text to explain the status to which the Vlachs should comply was not precise enough. The term *surf* is, therefore, used to specify the status of the subjects who engage in agricultural economy. ⁸ In the earlier Ottoman documents, such as the tax register for the same sancak from 1477, the same term appears in the expression *surf yerı* that is equivalent to *zirâ at yerı* or *zirâ ate kâbil yer*. ⁹ From the period of Süleyman’s rule the classification of land rather than the subjects became clearly pronounced as the main principle of the Ottoman land tenure and taxation system for reasons that will be discussed in the next chapter. Here, it suffices to say that the term *surf topragi* and *surf ‘âdeti* continued to appear in the later

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⁸ Some scholars translate the term “surf” as Serb or Serbian, based on similarity between the two words. However, the text does not give such indications. Also, if such an assumption is to be made then it is necessary to establish that such reaya, or such registers or such laws were indeed in place. Aside from the fact that no such terms or laws came down to us, it is necessary to keep in mind that Ottoman laws or other Ottoman texts discussed only separate religious communities or social groups (taifes) that were seen distinctive in their organization, trade, interest, education etc, and Serbs were neither, at least at this point of Ottoman history. (See: A. Akgündüz, *Osmanlı Kâtibnameleri ve hukuki tahilleri*, vol. 6, Istanbul: Fey Vakfı, 1993, p. 551; N. Moacanin “Introductory Essay on an Understanding of the Triple-Frontier Area: Preliminary Turkologic Research,” In: Microhistory of the Triplex Confinium: International Project Conference Papers (Budapest, March 21-22, 1997), Budapest: Institute on Southeastern Europe, 1988, p. 128.

⁹ Aličić, Ahmed ed. *Poinenični popis sanđaka vilajeta Hercegovina*. Sarajevo: Orijentalni institut, 1985, p. 136, 172. (The editor of this tahrir too translates the term as Serb land, even though it is clear from the text that the term is used to classify relatively small parcels of land, so it is impossible to explain why the *muharrir* would care to clarify that a singular parcel of land belonged to an ethnic Serb, if such a category had no relevance to one’s duties or legal status in general.
kânûns for the province of Hersek,\textsuperscript{10} to denote agricultural land. Similarly, the term 
*zirâ'ate kâbil yer* is in frequent use in legal documents of different regions, and the “new” term is also introduced to denote pastoral lands (*örü*, vakârların örûsû).

The purification of the kânûn law can be followed in several other documents, such as an undated ferman for the province of Alaca Hisar (Kruševac),\textsuperscript{11} and Semendire (Smedergevo) issued in the year 943 H./1536 C.E. The latter kânûnnâme contains two judicial decisions (qaziyye): one introducing the *harâç* taxes for Vlachs *in accordance with the requirement of the illustrious fermân (fermân-I ‘âlişân muktezâsinça)*\textsuperscript{12}, and the other abolishing the special status of the Martoloses serving in the garrison of the Semendire fortress. The latter group previously received salaries for their military service and were also exempted (mu’âf) from paying taxes from their produce. The *qaziyye* determines that they can either receive salary for their service or be exempted from taxes but not both, and that the old fermân awarding

\begin{footnotesize}
\begin{enumerate}
  \item Kânûnnâme-I Livâ-I Hersek, BOA TTD (Kuyûd-I kadîme), No. 8 (483), p. 2 (“Some villages that (belong to the category of) agricultural land were left deserted and Vlachs settled there. Some of those were found recorded in the old register, and some were recorded during current registration. Vlachs who settled on such agricultural land pay tithes to sipahi, in accordance to the surf custom, after paying the filori tax to the collector of filori. Vlachs who till the agricultural land from outside usually pay taxes as one tenth”). Akgündüz translates the term *surf toprağı* as “land of Old Serbia (Eski Serbistan toprakları), without explaining why would a single, isolated village be the territory of “Old Serbia” and what is the significance of that particular information in the tax register (Akgündüz, Osmanlı kânûnnâmeleri, vol. 8, p. 261).
  \item BOA, TTD 187 (28), p. 19-20.
\end{enumerate}
\end{footnotesize}
them both compensations are void. In the qaziyye (judicial decision) for the Vlachs of that province first their previous status is summarized and then their new status is announced.

In his eagerness to impose the same shari'a taxes on all reaya Ibrahim Pasha not only underestimated the obvious difficulties that may result from the enforced change of economy on the semi-nomadic and pastoral Vlach population. He also overlooked the fact that the agricultural economy could not function in areas with sparse arable land. Finally, he departed from the understanding of the authority of the kânûn established through long practice, and its conformity with the shari'a deduced from its manifest social value and the lack of conflict with the prescriptions of the divine law. The latter is evident not only in the ease with which he abolishes the old Ottoman laws, but also in the intitulatio of Süleyman, and that of Ibrahim, as statements of authority of the sultan/caliph and his grand vizier.

While the sultan is still presented as the “Shadow of God on Earth”, and “the lord of auspicious conjunction,” the attributes of the ruler-saint are no longer listed. Instead, the emphasis is placed on his role of mujaddid and ultimate protector and integrator. Thus he is presented as the leader of the Islamic community and the king

\[^{13}\text{Ibid. p. 23.}\]

\[^{14}\text{Based on this summary, Akgündüz concluded that this kaziyye is identical to the kânûn of Vlach from 934/1527 (Akgündüz, Osmanlı kânûnnameleri, vol. 5, p.358n). BOA, TTD, No. 187, p. 10, 18. However, it identical only in its first part where the previous laws regulating Vlach status were summarized, only to make clear what is exactly abolished.}\]
of all nations, the world conqueror and universal ruler, the reviver and renewer of learning, the unifier and integrator of domains and people.

The sultan is not represented simply as müceddid (Ar. mujaddid=the renewer of the religion), but more precisely as “indicator of the affairs of the realm and community (müş 'ir-i mülk ü millet), “legitimiser of the divine and worldly affairs” (müşri '-i dîn ü devlet), and “reviver of the doctrines that were obliterated” (muhyî 'avâkid'ir-rûsûm'îd-devâris). Another aspect of his role as a renewer is expressed in the attributes such as the “raiser of the pillars of mosques and madrasas” (mu'lî kavâid'il-mesacidi ve'l- medârisî).

The sultan’s role as unifier and integrator of the Islamic community is described both by known attributes such as “leader of the community of believers,” and by attributes that emphasize his non-partisan and fair protection of religious traditions such as “patron of gatherings witnessing God’s oneness and profession of faith.” The phrase “patron of gatherings witnessing God’s oneness” indicates inclusion of Sufi religious tradition within the ruler’s protection.

The statement of caliphal authority is given in the attribute of the “Caliph of God in the domain of knowledge” (khalifat’ul-llâh fi’l-‘ilmi). This attribute establishes the Ottoman sultan’s license to exercise authority in the matters of the Holy Law (shari‘a).

Aside from the sultan who as caliph occupies the position of the highest legal authority, the major figure in this project was the grand vizier Ibrahim Pasha. While it
is evident that the grand vizier consulted legal authorities regarding the specific legal issues that were elaborated in these kāntūnmāmes, it is also evident that he had been given authority to craft and style, coordinate and supervise the project of further unification of Ottoman law of land tenure and taxation. Indeed, this was the task that he was entrusted with when appointed as ser-asker in 1529. As Peçevi relates, this task consisted of "heeding and implementing the matters of religion and state (din ü devlet)."\textsuperscript{15} When Süleyman appointed Ibrahim Pasha ser-asker he formally gave him the authority of the head of the army, the authority that was hitherto exercised only by the sultan. This was in fact the position of the head of the state, considering the fact that askeri class in the Ottoman state included the members of the military and administrative apparatus, in short, all those who performed services for the state, in contrast to those who paid taxes to the state (reaya). A western source recording Ibrahim’s boasting about being the head of the state with authority over all offices confirms this.\textsuperscript{16}.

The description of Ibrahim Pasha’s authority contains, similarly to that of Süleyman, a long list of titles and attributes. In both preambles, the grand vizier appears as mediator between the sultan and different classes of his subjects, notables, intellectuals, bureaucrats and military. He was entrusted with realization of the


\textsuperscript{16}See H. D. Jenkins, \textit{Ibrahim Pasha}, New York, 1911, p. 82.
sultan’s imperial project by a twofold appointment. One was to communicate with, and represent interests of different social groups; and other was to realize the legal aspect of the sultan’s imperial project. This latter authority was described concretely in terms of several different appointments: establishing the laws of the land, the laws of knowledge, and regulations of religious endowments and charitable institutions.

The main difference between Ibrahim Pasha’s appointment in the matters of kânûn law and the previous involvement of high state officials lies in the nature of authority given to the appointee by the sultan. Süleyman’s predecessors never delegated the authority of decision-making or law-making to their officers. The competencies of a muharrir, i.e. an official appointed to conduct tahrir (registration of taxes) included the compilation of the codex of laws pertaining to a province registered in accordance with the list of orders and instructions given to him by the sultan. In addition to this there were two cases when a sultan could appoint an official, having either military/bureaucratic or legal competencies, to a duty related to the issuing of laws. One was the appointment to compile (tedvîn, Ar. tadbîn) the laws issued by one sultan. The best-known example of such an appointment is that of the Leylâ-zâde’s compilation of laws issued by sultan Mehmed the Conqueror (1451-1481).\textsuperscript{17} The other practice was to appoint an official to evaluate and codify an existing legal practice (custom), and compose a kânûn. While this appointment could be defined as lawmaking, the authority of such lawmakers was limited to exposition.

codification, and putting into the Ottoman legal language customs and even public laws issued or codified by the pre-Ottoman rulers. However, since such lawmaking always involved the existing, and known legal practice, already approved by the sultan, the decision-making authority of appointed officials, could, at best, be limited to minor interventions aimed at balancing the rights and duties of the legal persons in conformity with their already defined general legal status belonging to the reaya, or the military. Such was the case, for example, with Ahmed Pasha Hersek-zâde’s appointment to compose the law codex on timars.\(^{18}\)

The new terminology used to describe Ibrahim Pasha’s appointment in the sphere of kânûn law specifies his legislative authority. He is named “establisher of the laws of the land with justice” (mu’assisu qawâ’idi‘l-mamlakati bi’il-‘adli), “establisher of the laws of knowledge” (mu‘ayyidu qawânîni‘l-‘ilmi), the one who prepares (mumahhid), and the one who constructs (mushayyid) regulations.

While in the preamble to the law book of Egypt the local (Mamluk) laws were measured (at least on a declarative level) against the existing Ottoman örf, in the Rumelian kânûnâmes that same örf was questioned, and underwent a significant reduction. No sultan before or after Sûleyman undertook changing the kânûn law and replacing it by laws that disregarded completely the local legal practices and customs, or the established Ottoman practices and customs. Thus Ibrahim Pasha assumed legal

\[^{18}\] Ahmed Pasha Hersek-Zade was appointed grand vizier three times, during the rule of Sultan Bayezid II (1481-1512) and during the rule of Selim I (1512-1520). Several Copies of his kânûnâmes have been preserved, one of which is in Süleymaniye Library in Istanbul (Reisülkuttâb 2753, 100v-102r).
prerogatives that belonged neither to the office of sultan nor to the office of the grand vizier, but to the legislative authority of those with superior legal expertise. While the sultan, as caliph, is clearly designated as the possessor of such knowledge, the grand vizier is also given the attributes that describe him as an expert and the lawmaker.

The result of that “expertise” were laws that could not be applied, and that had also questioned the Islamic character of the Ottoman kânûn law. Before further examining the importance of the failure of purification of the Ottoman kânûn, I shall briefly analyze groups with special status in the Balkans, and their demographic, economic and military importance.

*Groups with Special Status*

The peasants of Muslim and Christian faith constituted the tax-paying population (reyâ) in the Ottoman Empire. In Rumelia, perhaps even more than in other parts of the Empire, this was a rather heterogeneous population consisting of groups differing in religion, mode of residence, production, and also services that they performed for the Empire. The majority of the agricultural/sedentary population was Christian, mainly affiliated with the Orthodox Church. The number of Catholics, initially only in Bosnia, increased after the conquest of the Hungarian kingdom, when also a significant number of Protestants became the subjects of the Sultan.

The major part of the pastoral/semi nomadic population consisted of various groups of Vlachs spread over the mountain regions of the Balkans from Rodopi in the
eastern Balkans to the west slopes of the Dinaric Alps on the Adriatic coast. Also, in the central mountainous regions of the Balkans a significant number of Yörüks were settled in the early period of the Ottoman conquest.

Within these groups, and particularly but not exclusively among the semi-nomadic population, there were organizations of peasant soldiers of pre-Ottoman origin that were adopted into the Ottoman military system upon conquest. These were **voynuks** and **martoloses**. The former were peasants who tilled the land and paid taxes, but during the campaigns performed some auxiliary services. In the western parts of Rumelia (the sanjaks of Bosnia, Herzegovina, Zvornik, Semendire, Pojega) the **voynuks** did not differ from the rest of the rural population regarding their rights and duties.\(^\text{19}\) In the central parts of Rumelia, however, they held rights of usufruct over larger parcels of lands called **baština**\(^\text{20}\). In parts of Bulgaria groups of **voynuks** served alternately in the royal stables in Istanbul. They were known as **voynugân-I hâssa**

\(^{19}\) In the “Kânûn-I ʿüsṛ ve harâc ve sair rusûm-I bâc-I reʿâyâ-I livâ-I Pojega (Kanun on ʿusr and kharâj and market taxes of the subjects in the Sanjak of Pojega)” the status of **voynuks** is defined as follows: “There are some infidels among the reaya known as **voynuks**. If there is a service at the border or if there is a military campaign they go to the frontier with **sancak beys** and **voypodas**, with their horses, garments, spears, shields, and all tools of war in perfect order, and collect intelligence and perform various services and fellowship in enquiring about the situation of the enemy. As it was presented to the Royal Threshold that the Beylerbey of Buda and the sancakbey of Pojega made it known that, for the reason of their service they were, until now, exempted and free of fees and taxes, and **fîloûn** tax, and 120 of the mentioned (group) were appointed **voynuks**. If they serve as explained above, by providing border services, joining military campaigns, and if they show no deficiency or negligence in maintenance of arms and war tools, and if they are helpful, it is ordered that they will be exempted from all **hukuk** and **rusum**, based on the old decision (BOA, TTD, No. 243, p. 4-5).

(royal voynuks). The martoloses mainly served as members of fortress garrisons. They were less tied to the land and received payment for their service (ulûfe) that was also supplemented with the right of usufruct over parcels of land in the vicinity of fortresses they served in. The significance of the Martoloses can best be illustrated by their service in the military garrisons of the Middle Danube where they formed one fifth of all salaried soldiers.

The semi nomadic population of Vlachs and Yörüks also provided military service during the campaigns. Unlike voynuks and martoloses who provided auxiliary services and served in fortresses, the Vlach were full soldiers. In general, one out of every ten households provide to provide an equipped soldier for a campaign. Vlachs were exempt from the traditional sheep tax (adet-I ağnâm) paid by other pastoral groups, and paid a set of taxes that were, together with regulations concerning their military duties, elaborated in special kânûns.

The most important exemption for all these groups –Vlachs, voynuks and martoloses – was the exemption from cizye, the unique toll tax paid by all Christian subjects of the sultan. The cizye tax was a shari‘a tax paid by all adult, healthy and sane male Christian (and Jewish) subjects (dhimmî) in an Islamic state. It was

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22 Velkov, Asparuch and Evgeniy Radushev, Ottoman Garrisons on the Middle Danube, Budapest: Akadémiai Kiadó, 1996.
considered compensation for the protection since non-Muslims were not required to
serve in military.

Among the rural population there were also numerous groups, usually
consisting of the population of one or several villages that were exempted from some
taxes such as avâriz and tekâlîf-şâkka in return for guarding and maintaining
mountain passes and bridges. They were known as derbentçiyân. Finally there were
other groups who were either engaged in the production of goods of special interest
such as mining, or performed some other services for the sultan such as falconry, that
were either partially or completely exempt from taxpaying.

Finally, in the context of purification another group should be mentioned that
had specific rights over the land units known as çiftlik. This group was composed of
members of different classes, most significantly of members of military garrisons in
the border area. They held land units of various proportions, but mostly in proportions
of one çift.\textsuperscript{23} They had the right of usufruct on these lands, and in return paid very
light duties in a lump sum. In this way the state ensured that the land was tilled, or at
least held under control even under very unstable conditions of the borderlands. In the
tax register of Bosnian province from 1530, 525 such çiftlik of various proportions
were recorded.\textsuperscript{24}

\textsuperscript{23} Çift was defined as a land unit sufficient for sustenance of one household. The proportions
varied in accordance to the quality of land (78 dönüms (1 dönüm= \( \frac{1}{4} \) acre) of high-quality land, 100
dönüms of medium-quality land, and 130-150 dönüms of low-quality land).

\textsuperscript{24} BOA TTD 175.
All these diverse statuses were regulated on the level of sanjak. In cases where the taxation was completely different from taxation of the majority of the population, special kânûns were issued; whereas the cases of partial exemption were noted within the tax registers (tahrîr defters). The semi military groups of Rumelia were integrated as such into the Ottoman military system, and the laws regulating their status were likewise adopted into the Ottoman legal system as a local custom, whereas, in fact, they were laws of the previous states in the region: the Byzantine Empire and mediaeval Balkan kingdoms.

All these groups together comprised a significant part of the population of the Balkans. They provided revenues comparable to those collected from the rest of the reaya. In addition to that, they also provided important services for the Empire. Finally, they mostly resided in the mountains and karst where agricultural economy could not be practiced. Therefore, one cannot see their special statuses as privilege.

*The Failure of the Reform and the Downfall of Ibrahîm Pasha*

The effects of the purification of the Ottoman laws in Rumelia were reversed in the next set kânûnnâmes and tax registers composed in or around 1540. This was done without excessive explanations or critique of Ibrahîm Pasha’s involvement. Instead of explaining the circumstances of the abolition of the laws on Vlachs, the explanation was given of the reasons for the restoration of their old status. Thus, for example, in the preamble to the kânûnnâme of Bosnia from 948/1540 written in
Arabic, the appointed registrar (muharrir) Za‘īm Mustafa says the following in regard to his task and in regard to the status of Vlachs:

"I did not spare any effort in reviving the shari‘a laws and customary practices (...), and I apportioned kharāj and taxes on the old reaya as it is accustomed among them in accordance with old sultanic register, and I lifted jizya and taxes from the group of infidels known as Vlachs, and apportioned on them filūri instead of jizya and taxes without exception, because their situation was in conflict with the old custom in the times of previous sultans based on the noble sultanic order and firm imperial decision." 25

Based on the evidence presented so far, even with unequivocal statements about the purging of the non-shari‘a laws, Ibrahim Pasha’s intervention in the old kânûns of the Ottoman core provinces could be seen as an unfortunate episode, without significant consequences for the stability of the Ottoman legal system, or the balance of the local society(ies).

I shall address the issue of the apparent smooth recovery and repair of damage caused by the purification of the kânûn law in the next chapter. For the purpose of the issue that is in focus here it is important to further analyse the knowledge and ambitions that informed Ibrahim Pasha’s actions.

After being promoted to the position of the bearer of authority in all matters concerning the relationship between religion and state, Ibrahim Pasha could act with a significant level of autonomy. He no longer depended on those who, while mediating the religio-cultural sentiments into the core Ottoman policies, created Ibrahim Pasha

as the _alter ego_ of the universal sovereign. As a catalyst of change he could promote and make successful the causes and ideas that he chose to advocate.

In order to reconstruct the new network of people and ideas around the grand vizier, and answer the question whether indeed the ideas and causes of the fundamentalist revival gained significant influence through him, it is necessary to turn to the narratives of his fall, and to some contemporary Western commentaries about his actions.

Celâlzâde provides a rare account of Ibrahim Pasha's last years, the account that is later referred to or summarily retold by other Ottoman historians. In his _Tabakât ül-Memâlik ve Derecât ül-Mesâlik_ Celâlzâde describes what he sees as the psychological transformation of the grand vizier in a pitiful tone. He talks about him not as a person or statesman (even though he recognizes his past merits) but rather as a failed project. The careful breeding and modeling of a gifted young man exposed to sophisticated culture and spirituality in the company of the future sovereign transformed him into a model of piety and wisdom. In a sudden and unexpected turn, he reverted to his old state of ignorance. In a manner resembling Zola's characters, he suddenly began to show the signs of "sickness": he refused to touch the Holy Book, and rebelled against the religion and the authority of the sultan. His old primitive and raw self was brought out through the influence of his new companions, some wicked and disgraceful individuals, who remain unnamed.

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26 Celâlzâde, Mustafâ, _Tabakât ül-Memâlik_, ff. 277a-278b.
Ibrahim Pasha’s rebellion, Çelâlzâde tells us repeatedly, began during, and especially after the conquest of Baghdad. During the Baghdad campaign his disposition changed, and after the conquest his character became thoroughly rebellious when he began to associate himself with “the disgraceful” and befriended “the despicable corrupters,” and “men of ignorance.”

The historical narratives of the campaign tell us that at that time Ibrahim began to issue orders using the title of sultan, or serasker sultan, apparently under the influence Ulama Bey a former Ottoman sipâhi who had joined the Qızılbash during the rule of Bayezid II, and in 1533 returned to the Ottomans and was appointed the sancakbey of Bitlis. In addition to this his reckless warfare in Azerbaijan resulted in small territorial gains but at the cost of heavy casualties. Peçevi explains that Ibrahim Pasha decided to continue military operation during the winter and then shifted the blame to the defterdar Iskender Çelebi who was dismissed from his post and executed. Süleyman could not afford any displays of weakness in the conflict with the Iranian shah, nor could he engage his army in risky undertakings.

Süleyman’s Baghdad campaign was perhaps the first campaign to display the full features of a new type of sefer-i hümâyun. In the decade following the integration of Egypt, the dramatic description of the appearance of the saint-king was further elaborated in the ceremonials of display of the magnificence of the new universal

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27 Ibid, ff. 277a-277b.

28 Peçevi tarihi, 169.
empire. The imperial campaigns became carefully staged displays of the new devlet of Süleyman. Following the model of his namesake Solomon, already evoked earlier in Selim I’s letter to shah Ismail,²⁹ he did not prepare his campaigns as military expeditions only, but also as political campaigns.

By the time of the Baghdad campaign, the imperial campaign led by the sultan was transformed into a fully developed mobile metropolis, the full display of the Süleyman’s medîne-I fâzîle. Not only did all components of the Ottoman army – sipâhis, janissaries, tribal units, Crimean soldiers, and auxiliary troops composed of both Christian and Muslim soldiers - comprise this ostentatious display. It also included bureaucrats of all ranks and translators; judges and executors, engineers and craftsmen; chroniclers, geographers and miniaturists; and poets and entertainers. It is most probable that due to these shows of imperial majesty, and displays of the knowledge, skills and human resources moving vast distances and settling under the colorful and shining city of tents of all proportions, in perfect order of hierarchy that Europeans came to call Süleyman: the Magnificent.³⁰

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³⁰ It is obvious that such a display was the purpose of Süleyman’s last campaign in Hungary in 1566. In spite of his old age and poor health the sultan decided to head the army in what could be seen a minor military operation in Hungary, because it was necessary, after a ten-year pause, to "remind" Europe of the sultan's power, before the awe that he had created in the first twenty years of his rule, through frequent campaigning in Europe began to fade.
During the Baghdad campaign Ibrahim acted in disregard of the war ceremonial and priority of imposing the majesty of the sultan as a way of neutralizing the opposition and resistance. It is quite possible that he acted out of zeal rather than out of disobedience. Thus it is possible to agree with Ottoman narratives in arguing that Ibrahim’s fall from favor was not caused by a particular “sin” but rather the accumulation of “sins.”

While Celâzâde only alludes to unnamed disgraceful people influencing Ibrahim Pasha with their ignorance, the silence of the Ottoman narratives about Ibrahim Pasha’s purge of kânûn law and his embracing of ideas of purist reform is somewhat compensated for by a brief reference in western sources that provides information about the kind of ignorance that guided Ibrahim Pasha’s actions.

According to a source belonging to the genre of orationes contra Turcos, the grand vizier ordered demolishing of fortresses in Hungary based on interpretation of Ottoman laws according to which it was illegal for private persons to own fortresses. The author of the speech, the Humanist Tranquillus Andronicus 31 claims that this was the reason why the sultan executed him “even though he was very dear to him.” 32

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31 Born in Trogir, near Ottoman border with Venice (Croatia) Tranquillus Andreis/Andronicus (1490-1571) was one of the most passionate authors of this genre. He studied in Italy and taught at the University of Leipzig. He also served as secretary and ambassador to the Ottoman Empire, French, Polish and Walachian courts: first under Francis I of France, then under John Zapolya, and finally under Ferdinand I of Austria and Charles V.

32 About destroying of the fortresses Tranquillus Andronicus says the following: “Deinde iussit palam edici per Hungariam in Conuentibus vt Hungari oes suas arcas demoliantur: esse contra Thurcorum institutum, vt quisque privatius muniment locum habeat. [Then he ordered to be publicly announced in assemblies in Hungary that they should demolish all of their fortresses; that it is contrary to the Turkish custom for a private person to own a fortified place.”. He also says about this decision
The same source observes the late 1530's as a period of crisis for Süleyman. He states that the crisis was caused by ill advice: "It is known that this tyrant Süleyman regretted that, misled by the advice of others who were secretly inclined toward Christians, he left Buda in Christians' hands." The same author also predicts that Süleyman will have to turn to Buda again, for "Even if he changed his decision from war plans to peace, and even if the desire to conquer the world does not direct his actions, have no doubt that he will gather all forces for a war in Hungary in order to regain his reputation and invincibility."\(^{33}\)

We have very limited and indirect information about the jurisprudence informing and formulating the purification project. Such a poor state of the archives regarding this issue allows for the following explanation. Involvement of jurists in the matter of unification of the Ottoman kânûn law was less visible because it worked through private venues rather than through the venues of legal offices or through legal discourse. Ibrahim Pasha's authority grew so large that he could be approached or influenced only through informal venues of private relationships.

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and Ibrahim Pasha's responsibility: "Poterant sine dubio Barbari, totam Hungariam infra breue tempus sue dicionis facere. Si captam bis Budam opportunis presidaes firmaissent cuius erraris principem Thurcarum uelmenteissime poeniet. Atque idcirco Ibrayn Bassam charissimum sibi, ac pene focium, quod istud ei suaserit interemit. [Without doubt, Barbarians could in a short period of time, bring all of Hungary under their government, if they fortified Buda, that they conquered twice, with appropriate garrisons, and the prince of the Turks strongly regretted that mistake. This is why he ordered Ibrahim Pasha killed, even though he was very dear to him], in: "Tranvili Andronici Dalmatae Oratio ad Germanos, de bello suscipiendio contra Thurcos", Ed. By V. Gligo in: Gavori protiv Turaka, Split: Logos, 1983. 518, 523.

\(^{33}\) Ibid. p. 523.
One Ottoman reference to the fall of Ibrahim Pasha gives the names of two men from his circle: the kadiasker of Rumelia Muhiddin Efendi and the kadiasker of Anatolia Kadri Efendi.\textsuperscript{34}

Ibrahim Pasha was executed in utmost secrecy in March 1536. This decision reveals that his fall was not caused by his “sins” of obstinacy and his own unfortunate conduct. There was clearly an awareness of a broader conspiracy that involved a number of people of influence, which could not be dissolved simply by Ibrahim Pasha’s execution. If announced publicly, Ibrahim Pasha’s execution could have even worsened the situation, and endanger the sultan’s position.

In the age of messianic expectations and revivalist zeal, the festivities and pomp of Süleyman’s inauguration to the throne of the renewer of the religion, the caliph and ruler-saint, certainly did not appeal to all. The purist reformists, the supporters of the shah of Iran (both inside and outside of the Empire), and different other streams had not recognized in Süleyman the realization of their expectations. While some rejected and fought him openly, others sought to redefine the renewal that he came to represent. The latter certainly had a significant basis of support among the Ottoman ulama.

\textsuperscript{34} According to Atayí Süleyman met with the two kadiaskers in Serez upon returning Corfu campaign. While conferring with the sultan the kadiaskers asked for the reason for the execution of Ibrahim Pasha, even though from the execution was, at the time, still kept secret. The sultan saw this inquiry as a clear indication of the close ties between the kaziaskers and the grand vizier and decided to dismiss them. (Atayí, Sakaï, p. 165.)
Süleyman obviously became aware of this, and of the role of Ibrahim Pasha as an agent of the revisionist renewal. The sultan himself, as explained earlier, was lured by the simplicity of the project of cleansing the Ottoman laws. However, left without the system of fortifications in Hungary, with new laws that could not be applied, and with a grand vizier who turned from the "perfect slave" into a competing authority, he had to silence the undeclared rebellion without acknowledging it, in order to avoid acknowledging the crisis.

So when the two kadiaskers asked about the execution of the grand vizier shortly after it took place, it became clear to the sultan that these two were closely allied with him, if not directly responsible for his "sins". As they were scholars of prominent standing and not the servants and slaves (kuls) of the sultan, all that he could do was to dismiss them from their offices on the spot. The lawyers who replaced them — Ebu's-Su'ûd in the position of kadiasker of Rumelia and Çivi-zâde in the position of kadiasker of Anatolia — would become, each in his own right, the major figures of the future reconfiguration and redefinition of the imperial culture.

Conclusion

The documents on purification of the kânûn laws in several sancaks of Rumelia uncover the significant crisis in the Ottoman Empire in the 1530's that was silenced in the contemporary and later Ottoman narratives. The crisis was caused by strengthening of the ideas of the purist reform that, through the agency of Ibrahim Pasha, came briefly to dominate Ottoman legislation and politics. Empowered by the
new conceptualization of sovereignty that delegated to him the authority previously exercised by the sultan, and the sultan’s berât appointing him to the position of serasker, Ibrahim Pasha became the most powerful figure of the Empire. As the sultan’s alter ego he was seen as the embodiment of sultan’s will. So when he began to act as a separate authority, he was able to introduce changes that were perceived as approved and decided upon by the sovereign. His independence in deciding on the important issues regarding the integration of the newly conquered lands north of the Danube, his independent military command and his purge of the laws of Rumelia regulating the status of numerous local groups that had crucial importance in the economy, demography and safety of the region became a source of crisis, because he allied himself with the purist reformers who sought to redefine the renewal of Islam by discarding the Ottoman legacy and integrating the Empire by imposing the fundamentalist revision of its laws.

The laws that were purged in the 1530's formed a significant part of the Ottoman kânûn law, the same legal system that Celâlzâde propagated in the preamble to the Egyptian kânûnnâme as the unique Ottoman legitimation for the leadership of the Islamic renewal, and the platform for the claim of Ottoman superiority over the Mamlûk system.

The only formal sign of the failure of the purification reform is the disappearance of its regulations and their effects in the very next set of provincial kânûnnâmes issued in the 1540’s. No explicit critique of it can be found in the
sources. This silence applies both to documents issued by the sultan, and to chronicles and historical accounts (contemporary and later), as well as works in the field of jurisprudence. Even the execution of the main protagonist, Ibrahim Pasha, was very poorly explained in Ottoman sources, and certainly not tied to his work on law. The reasons for this silence should be identified in the following spheres: the culpability of the actors involved, the damage that a public announcement of the failure could cause, and the imperative of carrying on with the new imperial project.
PART TWO

OTTOMAN LEGAL SYNTHESIS: LAW AS HERITAGE AND COMMON PROPERTY
CHAPTER THREE
THE LAW OF THE LAND AND SHARĪ‘A

This chapter focuses on two major developments marked and defined by Ebu’s-Su‘ûd’s juridical work while in the position of chief military judge (kadiasker) of Rumelia. One is described in Ottoman narrative sources as bringing the kânûn in agreement with the shari‘a. This development can be followed through Ebu’s-Su‘ûd’s interpretation of the concept of erâzi-I mîrî or erâzi-I memleket and the application of that interpretation in Ottoman legal practice. The other is the declaration of Sunni Islam as the official religion, and Hanafi legal school as official legal school applied in Ottoman courts.

Seen through the prism of the jurisprudence of Ebu’s-Su‘ûd, that also represents the major historical source about these two developments, they also mark (another) reconceptualization of universal sovereignty, and reveal a new set of imperatives informing the Islamic renewal and restoration of the caliphate.

The reductionist jurisprudence, briefly dominant in the 1530’s, which used shari‘a as an extremely tight sorting mechanism, sifting out the legal practices that grew out of local customs of the Balkans, put the Ottomans in a defensive mode regarding their legacy. Beside the preambles and the kânûns discussed in the previous chapters, this defensive mode is also evident in Ibn Kemâl’s interpretation of the
concept of erâzi-I mûrî (or erz-I hân-I memleket, as he calls it). He states that the erz-I hân-I memleket is the land for which “it is not known in what way it was taken or surrendered during the conquest, or whose owners became extinct, so since its status is unknown, and its owner is unknown, it should be seized for the public treasury.”1

This definition of the erâzi-I mûrî indicates that all of the Ottoman lands acquired before Selim I’s time were classified as mûrî lands because they could not be classified properly as either harâcî or ‘ögrî due to the lack of evidence about their acquisition, i.e. whether they were acquired by military force or surrendered voluntarily. Thus, in a way, Ibn Kemâl was apologetic about the most glorified aspect of Ottoman history, the ghaza wars of the earlier sultans. In this interpretation, the early Ottoman conquest becomes dubious, while the later acquisitions, namely those of Selim I, had no legal relevance as to the status of land or taxation. The criterion there was the character of the initial, early Islamic conquest.

The controversy surrounding the category of mûrî land was evidently both created and exacerbated by the revisionist mind of the purist revival of the time, that saw this category as illegal innovation, the third category concocted by the Ottomans to accommodate (what was seen as) the improvisational character of their military and political enterprise. The revision of the Ottoman legacy and the militant policy of Ibrahim Pasha threatened to annul the enthusiasm built in the 1520’s. By the mid

1 SK, Carullah Efendi, No. 968. folio 6b; Akgûndûz, Osmanlı kânûnnameleri, vol. 4, p. 84, 90-91.
1530's the confidence that permeated the preamble to the kânûnnâme of Egypt all but disappeared.

With the appointment of the eminent jurist and teacher Ebu's-Su'ûd to the position of kadiasker of Rumelia, the course of the most urgent project of Süleyman, the unification and consolidation of kânûn law, took a turn completely different from that followed by both Ibrahim Pasha and Kemâl Pasha-zade. He abandoned both the apologetic tone of the former Şeyhülislam and the purist reformist zeal of Ibrahim Pasha. He also reversed the logic of the preamble of the kânûnnâme of Egypt wherein the very appearance of the ruler-saint was presented as antecedent to the realization of the just order. According to the preamble, the very presence of such a ruler, holding the scepter of the superior kânûn law, would have caused every component of the new, universal devlet to fall into its place. Ebu's-Su'ûd introduced the opposite logic according to which the realization of the just order was antecedent to the caliphal sovereignty. Also, the caliphal sovereignty as declared in the preamble to the kânûn of Buda is defined differently. Süleyman is no longer given the title of the "Caliph of God" or "Caliph of God in knowledge", but "Caliph of the Messenger of the Lord of the Worlds."2

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2 On this announcement and further elaboration of the caliphal authority, and the combined authority of Süleyman, holding both sacred office of the Caliph and that of the "pre-eminent Sultan" see C. Imber, Ebu’s-Su’ûd, p. 104-106.
With only one exception\(^3\), none of the important aspects of Ebu’s-Su‘ûd’s legal interpretation, while in the post of kadiasker of Rumelia appear to introduce a major innovation. The tone is one of clarifying and scrutinizing the issues that had not been formerly clarified and scrutinized by the Ottomans, by referring to the opinions and interpretations of the great legal experts of the past, rather than offering a new, independent interpretation. This has led modern scholars to see him as a politician with strong legal background, whose priority was serving the sultan’s ambitions, and whose legal interpretations were aimed to provide legitimacy for the sultan’s caliphal claim.\(^4\)

In this chapter I intend to argue that Ebu’s-Su‘ûd’s interpretation of the Ottoman kânûn amounted to a reform that resulted in the formation of a new Ottoman legal synthesis. He formulated the reform in the best tradition of Islamic jurisprudence, as a simple bringing to light, and to the attention of contemporaries, the ancient and authentic knowledge of the great jurists of early Islamic history. This was neither intended nor presented as a legal trick, but as a sincere effort of a jurist who believed in the efficiency and efficacy of Islamic law. The legal culture that he belonged to did not have appreciation for mixing jurisprudence and politics. Before he became kadiasker of Rumelia, he already had a high standing as a scholar and

\(^3\) The said exception is his interpretation of the issue of cash endowment that is discussed in Appendix F.

\(^4\) See, see for example: C. Imber Ebu ‘s-Su‘ûd, p. 106, 270.
jurist, and it is highly improbable that he would want to exchange his call for the rewards that services to the sultan may bring.\(^5\)

The collection of petitions or submissions, that were presented to the sultan by Ebu’s-Su’ud, and that were initially composed as fetvas represent the key document that bears witness to the second development that this chapter focuses on. Similarly to the *Kânûn on land* the collection was compiled, and made into a document frequently copied and referred, that became known as *Marûzat*. As in the case of *Kânûn on land*, the *Ma’rûzât* were first copied and collected later, after Ebu’s-Su’ud’s death, most probably under Murad III.\(^6\)

The very order of action that Ebu’s-Su’ud undertook reveals the shift of priorities in the legal sphere. Instead of turning back, once more, to what became, very much due to İbrahim pasha’s action, the controversial law on land and taxation in the core Rumelian provinces, he turned forward to the current issue of introducing the Ottoman legal system in the newly acquired provinces north of the Danube. He did so not in order to avoid the dilemmas over the legality of the Ottoman kânûn, but

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\(^5\) Modern scholars often emphasize that he worked in service of the sultan. Thus, for example, Imber says that he was “a practical jurist working in the service of dynasty.” (Imber, *Idem*, p. 207). Another work describes Ebu’s-Su’ud’s continuous occupying of the position of şeyhülislâm through the rule of Selim II in terms of “offering services” to the new sultan (E. Kermeli, “Ebu’s-Su’ud’s Definition of Church *vakf*’s: Theory and Practice in Ottoman Law,” In: Gleave Robert and E. Kermeli, ed. *Islamic Law: Theory and Practice*, London: I. B. Tauris, 1997, pp. 141-156.

simply because he acted exclusively upon his authority as a jurist. As an Islamic jurist he could not revisit and reinterpret the legal facts of the past.\footnote{The very definition of Islamic legal interpretation includes two elements: the Divine law and the current fact(s). The two are brought together through the interpretative effort informed by the knowledge and methods of the legal discipline of fiqh.}

In regard to the legal definition of the \textit{miri} lands, Ebu's-Su'\üd issued a number of \textit{fetvas} which did not revisit the historical conditions of the Ottoman conquest, but rather offered a general definition of this category of land in the context of the available legal knowledge. Thus, his interpretation is not offered as a product of his own legal reasoning but as a synthesis of the available knowledge. Once again, in the preamble to the kânûnnâme of Üskûp and Selânik in 976/1568 he revisited the issue by giving the definition of the categories of land – \textit{harâcî}, \textit{uşri} and \textit{miri}. His interpretation of the category of \textit{miri} land is found in numerous copies, often entitled as \textit{Kânûn-I erâzi/Erâzi Kânûnu}. The latter title is not original, but given later to the collections of his \textit{fetvas} about \textit{miri} land. This “renaming” of the collection of \textit{fetvas} into \textit{kânûn} represents a unique proof of the historicity of Ebu's-Su'\üd’s jurisprudence and the common acceptance, validation, and application of the legal knowledge so produced.

In Ottoman posterity these documents gained the status of classical texts of Ottoman legal interpretation. The fact that both \textit{kânûn on land} and the \textit{Ma'rûzât} collection have come down to us in numerous copies demonstrates the significance
that these texts gained over time as reference literature. They also received a substantial scholarly attention in the recent works of H. İnalcık, R. Repp, Colin Imber, Haim Gerber and J. R. Barnes.8

Ebu’s-Su’ud’s interpretation of the Ottoman land system succeeded not only in providing the unifying and consolidating principles for the existing Ottoman legislation. It also introduced the reform of that system without referring to the existing legislation in terms of critique, correction or purification. Following the principles of Islamic legal learning, Ebu’s-Su’ud relied on the authority of the great scholars of the classical period, carefully positioning himself within the genealogy of legal knowledge.

In the following discussion of, first, the preamble to the Kânûnname of Buda and Kânûn on land, and second, the Ma’rûzât collection the emphasis will be on placing these texts in their practical legal context. In other words, these documents will be analyzed as a part of a broader discourse – speech and action – that reshaped Ottoman legal awareness on the one hand, and as the reversal of the ill-effects of the Ibrahim Pasha’s amateurish attempt to unify Ottoman land and taxation system on the other.

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Preamble to the Kânûn-nâme of Buda and the Kânûn on Land

The preamble to the kânûnnâme of Buda has been seen crucial for the successful introduction of the Ottoman land tenure and taxation into Hungary, enabling the full incorporation of the lands north of the Danube into the Empire upon the death of king János (John) Zápolyai in 1540, and the formation of the eyalet of Buda. According to Imber, the annexation of Hungary was “the impetus to describe and systematize Ottoman land tenure”\(^9\) and the event that opened the issue of applying the Islamic-Ottoman law in the newly-conquered territory.\(^{10}\) While Imber states clearly that the legislation to introduce the (Ottoman) system into Hungary was “impossible without a systematic account of its general principles,” he does not give a clear explanation of what urged such an account, except referring to the state of Ottoman laws in the provinces south of the Danube (Rumelia). These laws, he states, were not uniform, and there was no description of their underlying norms.\(^{11}\) However, the existing Ottoman land system in the Balkans was not a random patchwork of adopted legal practices. Its legal diversity was primarily the reflection of the diverse economy and society of the region.

\(^9\) Imber, \textit{Ebu ş-Su'ud...}, p. 122.
\(^{10}\) Inalcık, \textit{Islamization...}, p. 101.
\(^{11}\) Imber, \textit{Ebu ş-Su'ud}, p.122.
As said earlier, numerous local customs and taxes were adopted into the
Ottoman legal system following the Ottoman expansion into the Balkans. While all of
the territory was defined as erâzi-î mîrî not all of its economy was agricultural, and
not all of its population was peasant. Even though there was no single legal text that
interpreted the underlying principles of the laws on land and taxation, and the legal
status of various groups of subjects, these principles were nevertheless implied in all
of the laws that regulated the special status of groups such as Vlachs, voynuks and
martoloses. Whenever a special kânûn was issued to regulate the status and taxes to
be paid by one such group it always specified that such group paid a set of taxes that
were introduced instead of haraç (kharâj) and rusum taxes. Likewise, if a group was
exempted (mu‘âf) from the poll-tax (cizye), that was clearly stated and the equivalent
services to the state were listed. Therefore, the core regulations of the system were
delineated in all cases, and the exemptions were clearly understood as variants, or
substitutes.

Another aspect of the diversity of the Ottoman legal system in the core
provinces (of which the Balkans formed a major part), that is implied in the work of
modern historians, and clearly expressed in the earlier Ottoman critique of the
Ottoman legal system, is its unselective character in regard to adoption of legal
practices that were seen as illegal by the standards of the Holy law. While modern
Ottoman historians devoted a large number of studies to the Ottoman legal system,
the focus of analysis was often aimed toward the syntheses of the Ottoman timar
system, land and taxation system as the basis of the Ottoman economy on one side, and the issue of the origins of the Ottoman laws and institutions on the other. The emphasis of the scholarly work was on what was seen as the effectiveness of the Ottoman legal, economic, and governmental system, not on its deficiencies. The apparent either tacit (among Ottoman scholars) or explicit (among modern Ottomanists) consensus on the effectiveness of the land and taxation system of the early, pre-sixteenth century Ottoman state, contradicts somewhat the argument about the need to interpret its underlying principles. The Ottoman system was not in crisis.

Imber’s argument about the necessity of systematizing the laws on land tenure by explaining its underlying principles is still well-based. However, it is seems to be a teleological argument, as Ebu’s-Su‘ûd did exactly that. The necessity that he addressed was, however, the integration of the Hungarian land into the Empire. Also, in terms of addressing the critique of the Ottoman legal system in general, and land tenure and taxation system in particular, Ebu’s-Su‘ûd explained the legal character of the mîrî land and revived the exchange between legal theory and legal practice. He did not address the diversity of the legal system. At the end of Süleyman’s rule, as I intend to argue in the next chapter, the Ottoman legal system was more diverse than ever. Its unity was ensured not by the absolute sovereignty of the sultan and the highly centralized political system, but by the sovereignty of law that becomes the sultan’s substitute persona.
The situation in the lands north of the Danube certainly represented a major challenge to the Ottoman sultan. Geo-strategically this region differed significantly from the rest of the Ottoman provinces in Europe. After being taken by military means, it was returned to the ruler who owed his sovereignty to the support of the Ottomans. Unlike the previous Balkan kingdoms, after the Ottomans conquest the area remained highly contested by another major political power in the region. This contest was not one of general religio-political interest of the Christian powers led by or encouraged by papal calls for crusade that would liberate Christian lands from Muslim occupation. It was one of the competing claim of Ferdinand to the Hungarian throne that was further legitimized in 1538 by the agreement between the two factions of the Hungarian nobility according to which the Hungarian throne was to pass to Ferdinand after the death of János (John) Zápolyai.

Also, in contrast to the mountainous regions the lowlands of Hungary were open to possible Habsburg offensive. The swift advance of the Ottoman cavalry into the vast lowlands of Pannonia in the 1520’s was not, as said earlier, followed by the construction of a dense and effective fortification system. Even the existing fortifications, in the possession of the Hungarian nobility, were allegedly ordered to be destroyed. As the Ottomans had only limited resources to colonize the land, it was necessary to strengthen ties with the rest of the Ottoman lands, and ensure the

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12 The Pannonian depression includes the regions of the present western Hungary and parts of eastern Austria, Slovenia, and northern Serbia (Vojvodina) and Croatia (Slavonia).

13 See the previous chapter, note 13.
loyalty of the local population by introducing an effective legal system. This was however, the political necessity. Seen through the prism of law the necessity was to decide on the land regime and the status of the new Ottoman subjects.

The defining of the land regime in Hungary provided Ebu’s-Suṭud with a perfect opportunity to revisit the legal interpretation of the miri land and revive the relationship between legal practice and legal theory without addressing, implicitly or explicitly, past practices. He states routinely, as if talking about commonly known and already examined and interpreted legal matter, that the population of the new province should remain in residence with full property rights (müلك) over their movable property and the right of usufruct over the land (tasarruf). After the detailed explanation of the two rights he explains the limited right of usufruct by stating that the land belongs to the category of royal demesne (arazi-I memleket), also known as miri, wherein the real substance (rakaba) “is reserved for the Treasury of the Muslims (beytü’l-mal-ı müslimin), and the subjects (reaya) have only use of it, by way of loan.¹⁴

The tone of certainty used by Ebu’s-Suṭud would make almost impossible to establish whether this was the first instance that the issue was ever addressed by

¹⁴ The text of the preamble is contained in the tax-register of Buda from 1541 (BOA, TTD, no. 987). V,

It has been published in Turkish and in English several times. I refer to the translation by Imber (Ebu’s-suṭud, p. 122-123). Other editions include: Milli Tetebuler Mecmuası, İstanbul, 1331/1913, pp. 49-50; H. İnalci, Islamization, pp. 101-102; O. L. Barkan, XV Ve XVI Asırlarda Osmanlı İmparatorluğu’nda Ziraat Ekonomisinin Hukuki ve Mali Esasları, İstanbul 1943, pp. 296-297; J. Barnes, An Introduction to Religious Foundations, pp. 36-37.
Ottomans. The conflicting scholarly views about the beginning of Ottoman practice of making the conquered lands state domain reflect differences in interpretation of the early Ottoman state rather than the ambiguity of the early Ottoman laws in this regard. Barnes recently drew attention to the state of research in this respect. Based, on the study of the Ottoman conquest of Albania (Arnavud), Inalcik dates the practice to the late fourteenth century.

The other opinion according to which the miri land regime was introduced in the middle of the sixteenth century is based on Pakalin’s account of the erazi-I oṣriye where he states that until that time Anatolia was treated as oṣri land and Rumelia as haraci. Ebu’s-Su‘ud’s own description of land tenure in the province of Üsküpl/Selânik before 976/1568 may be seen as corroborating the above statement by Pakalin’s claim. The description is given in another key document that, in addition to the preamble to the kânûnname of Buda, represents Ebu’s-Su‘ud’s interpretation of the Ottoman land regime and brings it into agreement with the shari‘a – the preamble to the kânûnname of Üsküpl/Selânik:

“But in the venerable registers of former times, details of conditions of lands within the protected dominions are not encountered. And what is the real conditions of these lands, are they oṣriye or haraciye? Since it has been neither determined nor stated whether they are the mülk property of those who

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possess them, the reaya, thinking that the lands in their possession were öşriye, contested giving one-eighth of the produce, and thinking their lands were their own, like their other mülk property, they purchased and sold them among one another. And some assumed without warrant, that they could make them vakîf, and the governors and judges as well, contrary to the holy law, gave deeds of purchase and sale and vakfiyye deeds, and since this has caused grave harm to the general order of affairs and the interests of the people, by means of the noble imperial registers, the real condition of the lands within the protected dominions will be determined and made manifest, and a ferman is to be issued to state and make clear the manner of possession to those who occupy these lands.\footnote{This text is contained in the tax register for the mentioned province (Tapu ve Kadastro Umumi Mudârlıgu, no. 190). The translation quoted is from: J. R. Barnes, \textit{Introduction to Religious Foundations}, pp. 32-33. Other editions in Turkish and English include: \textit{Milli Tctebuler Mecmuasi}, I. pp. 57-58; O. L. Barkan, \textit{XV ve XVI Asrlarda...}, pp. 297-299; H. Inalcik, \textit{Islamization ...}, pp.103-106}

Ebu's-Su'ud's account of the land regime before 1568 does not directly corroborate Pakalín's view because the province in question was in Rumelia, and therefore should be defined as 
\textit{harâci}. Nevertheless, Ebu's-Su'ud's account reveals several important things. First, the reaya mentioned as complaining about the taxes could only be the Muslim subjects, for it is hard to imagine Christian reaya being so thoroughly familiar with the terminology and its meaning. Also, Christians could only be \textit{haraç güzar} (haraç-payers). And finally, land-owning was a concept that was foreign to most of the Christian peasants in the pre-Ottoman Balkan states, and unless the Ottomans made a large public propaganda about changing their status and recognizing the full property rights over land to them they could not know that they had become the full owners.
Now, the reasons for the complaints of the Muslim reaya could be revealing of several important issues regarding the mīrī land regime, the dating of its introduction and the controversy surrounding it. First, it is clear that the Muslim population, and the population in general, as well as governors and judges were not familiar with the land regime, only of the practical implications of it which they tended to interpret independently. Second, to them the history of the Ottoman presence in the area was their own history and they could not perceive it in official terms of declarations, announcements, or laws issued. The judges and governors, on the other hand, were concerned with documents issued by the government, but only as working documents meant for the use in administration. Also, as D. A. Howard noted “the classical kânûnmâmes did not refer to the shari‘a”, and their validity “rested on the principle of īrf.”¹⁹ As long-time residents of the province the Muslim reaya may have seen that īrf as their own making as much as the sultans’. The judges and governors, on the other hand, could resort to their own interpretation of the kânûn laws as these did not spell out the shari‘a principles behind the laws. Thus, what they saw as legal behavior Ebu’s-Su‘ûd saw as illegal behavior, either because indeed the legal norm they followed was different than the one Ebu’s-Su‘ûd was about to introduce, or, more likely, because the legal norm both sides referred to was essentially the same, but had never been spelled out, or was ambiguous.

Based on the complaints by the (Muslim) reaya, it is possible to discern the reasons that urged the legal interpretation of the miri land regime in the first place. It is obvious that the Muslim reaya would “think (emphasis mine) that the land in their possession is oşriye.” They lived on the land that was conquered by the sword, and where their ancestors settled after the conquest. Thus, in their view, the land was their property, and they had no other way of knowing the legal category of the land except judging from the taxes they paid, which were named oşr taxes. Also, in the earlier laws issued for Rumelia only the Christian reaya were referred to as harâçguzâr, and the term harâç referred only to cizye.\(^2\) Thus, in the early laws, the term harâç was associated with Christians, who were called kefere (infidels).

The understanding of the reaya of the Üskûp province may have been shared by other reaya in the Empire. More importantly, their concerns may have been induced by the judges who shared the view of corruption and ignorance of the Ottoman ways, and who believed that Muslims should not be put in a position equal to that of Christians in regard to land tenure and taxation.

Ebu’s-Su’ûd was aware of the controversy created by such views and the discontent among some Ottomans regarding the state ownership of the land. After all,

\(^2\) Both the decree (hûkm) issued by Sultan Mehmed Fatih in 880/1476 to the collector of cizye (harâççî) in the provinces of Grebena and Premedi, and the berât issued by Bayezid II, also to the collector of cizye in Rumelia, use the term harâç as synonym for cizye. The former document is preserved in several copies, while the latter document is preserved only in one copy. All copies date are included in undated volumes containing the sultanic decrees. None of the scholars who used these and other decrees containing the kânûn laws attempted to date these copies by examining the water marks. However, it is highly improbable that the copies were contemporary to the documents issued. I used the facsimiles and transliterations published by Akgündüz (Osmanlı Kânûnnameleri, vol. I, pp. 509-13; vol. II, pp. 347-351).
these were not completely new reactions to a completely new situation. Süleyman’s predecessors Mehmed the Conqueror and Bayezid II faced serious discontent and even resistance in their attempts to reclaim the lands that were initially (upon the conquest) distributed to the Turcoman commanders and other prominent leaders as full property (mülk). While in the preamble to the kânûnnâme of Buda Ebu’s-Su‘ûd only declares the mirî land regime as the land regime in the new province, and describes the rights and duties of the new Ottoman subjects, in the preamble to the kânûnnâme of Üskûp he gives the legal description of all three land regimes (öşri, harâcî and mirî). It seems that, almost three decades after the interpretation of the mirî land regime in the preamble to the kânûnnâme of Buda, the province of Üskûp resisted the idea of the state ownership of the land. In other provinces of Rumelia, as will be explained later, the interpretation already had significant effects.

First, he states that the issue was not determined in the previous registers. After blaming what he sees as misunderstanding by both the reaya, and the judges “who were not aware of the true mirî status of the land”¹ and thus issued deeds of purchase and sale of the land and deed of endowments, based on the lack of knowledge, Ebu’s-Su‘ûd addresses the issue in more detail, and provides a summary of the available legal knowledge of the issue of land tenure, as if educating the audience and restoring the presumably lost memory of it. He also addresses the issue of buying and selling, by clarifying what can be bought and sold. As the reaya do not

¹ The quoted statement is taken from Inalcik’s translation of the preamble (Islamization, p. 104). Barnes’s translation does not include it.
own the land but only possess it, the object of buying and selling could only be the
*hakk-I karâr* (the right of residence). He also states that no such transaction could be
conducted without the consent of the *sipâhis.*

The important aspect that is further elaborated in the preamble to the
kânûnmâme of Üskûp and his *fetvas* on the legal character of *mirî* land is the emphasis
on the definition of *mirî* land as essentially *harâcî* land, and on the authority of the
*imam* to decide on the land regime. In other words, the status of land is not decided
by the circumstances of its acquisition but by the ruler. Once the status of the land is
established it could not be changed because the land is settled by Muslims, or because
the population converted to Islam.

As said earlier, in several recent studies the subject of Ebu’s-Su’ûd’s
interpretation of the *mirî* land regime received scholarly attention proportionate to its
importance. Ebu’s-Su’ûd’s interpretation is identified as part of his juristic labor that
brought him the attribute of the scholar who brought the kânûn and the *shari‘a* into
agreement. The only aspect of this subject that has not been studied is the effect that
this interpretation had on legal practice.

Before addressing this issue it is necessary to note that the exact nature of
Ebu’s-Su’ûd’s exceptional juridical mastery cannot be easily communicated to
modern scholars. His success is almost too easily attributed to his assumed political

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22 Ibid., p. 104.

affiliations. His legal genius cannot be observed through his legal interpretations only. Indeed, his interpretation of the miri land regime presented in a dry and matter-of-fact legal language appears to be, and indeed is, an assembly of the available legal knowledge on the subject. (Here, it is important to notice that the preambles composed by him depart from the drama of the preamble to the Egyptian kânûnmâme, and rhetoric about justice and concern for the subjects of the preambles to the Rumelian kânûnmâmes.)

What prevents a modern scholar from dismissing the lavish praises by his biographers and Ottoman historians as mere exaggerations, is the strong impression that he "did the right thing at the right time." This is the view presented in Imber's book about Ebu's-Su'ûd. Imber sees him as a lawyer who became de facto, by the way of appointment to the post of kadiasker of Rumelia, the most powerful judicial figure of the Empire. It was at this post (that was judicial and not juridical), Imber states, that "he faced the problem of constructing (emphasis mine) a theory of land tenure and taxation that would reconcile "what is written in the books" with what actually happened in the practice.

However, the creativity of Ebu's-Su'ûd's work is not in the way he responded to the necessities of the time, but in the fact that he defined the necessities.

The miri land regime was a part of the legal culture of Anatolia that the Ottomans only adhered to, without questioning. After Selim's conquest, the new core

\[24\] Ibid., p. 122.
Islamic regions, where ḍūrī and harācī land regimes had been in place for centuries, became part of the Empire. The problems of integrating the new provinces might have brought the awareness of the differences, but they were not addressed in a way of conflict. It must be noted that these land regimes were a part of the legal culture of these regions, in the same or similar way the mirī regime was for the Ottomans. Thus, if there were problems concerning the integration of these provinces they were not addressed on the level of legal learning but rather on the level of legal practice. As shown in the example of Egypt the Ottomans were successful in this respect. Even in the time of Selim the old legal practices of the new Ottoman provinces were simply adopted by the Ottomans without causing any questioning of the Ottoman ways. The insecurities that induced discussions among the Ottomans about the legality of their institutions were informed by the imperatives of renewal that were not particularly Ottoman.

The idea of interpreting the underlying principles of the Ottoman land and taxation system, instead of reducing its diversity, was quite obviously Ebu’s-Suʿūd’s. The teleological reasoning according to which he only responded to the necessities induced by political developments only demonstrates how successful and imposing his interpretation was. The view of his contribution as “fitting” or “adjusting” the

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25 Selim issued numerous kânûns, and yasak-nâmes based on the laws of previous rulers. Most of these legal documents refer to the laws of Uzun Hasan (Hasan Pâdişah) and were issued in 924/1518 for the provinces and districts of Amid, Birecik, Çermik, Harput, Kiği, Urfa, Silverek, Bayburt, Erzincan, Kemâh, Harput, Ergâhi, and Çungus (All in BOA, TTD 64 (840); edited by Akgündüz, Osmanlı kânûn nâmeleri, vol. 3: 236-239; 243-270; 276-305).
existing legal practices to conform to the prescripts of the Holy Law, and to solidify the absolute power of the sultan, does not explain the position of greatness acknowledged by his peers. In order to depart from teleological reasoning such as the unavoidable resolution of the improvisational and unsystematic character of the kânûn laws, and the establishment of the absolute power of the sultan, it is necessary to see whether and what effects his interpretation of the land and taxation had on legal practice.

The effects of his interpretation can be best examined in those provinces that had been previously affected by Ibrahim Pasha’s purification of kânûn laws. As said earlier, the special statuses of groups of the population that performed services for the state were reinstalled in or after 1540. This not only coincided with Ebu’s-Suûd’s interpretation of the land and taxation laws but was also affected by it. The case of Vlachs, who were the most numerous group affected by the purification, is particularly indicative.

Ebu’s-Suûd’s interpretation identifies taxes collected from the reaya (whether Muslim or non-Muslim) as haraç. Of course, he refers to the harâc-İ erz (the land tax) and not to the harâc-İ re’s or cizye. In the case of Vlachs the lands in their winter residences, i.e. the Vlach villages, were divided into units of the proportions of one çift26 for which the local term bastina was used.27 They continued to pay the old, pre-

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26 Depending on the quality of land the proportions of çift were defined in the following way: 70-80 dönüms (17.5 acres) of high-quality land, 100 dönüms (25 acres) of medium-quality land and 130-150 dönüms (32.5-37.5 acres) of low-quality land.
Ottoman tax of one *filori* (which had been earlier defined as substitute for *haraç*), only now they paid the tax from the land. Instead of recording their status in the form of a special law introducing the part of the register recording their villages and taxes, the law is summarized either by the expression *âdet-I Iftâkiyye*, or by referring to the group as *filori edâ eder kimesneler* and included as a single regulation within the kânûnnâme at the beginning of the tax register for the province in which the group resided. In this way the “custom of Vlachs” was acknowledged as one of the laws for the whole province and not just for a certain group. This was not just a formal acknowledgment. After 1540 we can find different non-Vlach groups paying their taxes in accordance to the “Vlach custom.”

After 1540 in the tax registers of the provinces of Bosnia, Hersek, Pojega, Semendire, Zvornik, and Klis, *baština* is introduced as the fundamental taxation unit for all Christian reaya. This character of *baština* is specified by the expression *haraç ve rusûm verür baština*. Even though *baština* was sporadically mentioned in the

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27 In South Slavic languages the word means *patrimony* (equivalent to Latin *hereditas, praedium*). In modern Bosnian, Croatian and Serbian it is used only for “heritage” (Petar Skok, *Etimološki rječnik hrvatskog ili srpskog jezika*, vol. 1, Zagreb: Jugoslavenska Akademija Znanosti u Umjetnosti, p. 120)


29 In the provinces of Bosna and Hersek, *baština* became the fundamental taxation unit for both Christians and Muslims. This, however, only reflects the fact that the Muslim reaya there were local population that converted to Islam. So, the practice in question only acknowledges that the term was in use locally by both Christians and Muslims when referring to their lands.

30 *Kâmin-I Tapû*, for the province of Zvornik, 955/1548 (BOA, TTD 260, p. 17.)
kânûns for the Balkan provinces, it was not before 1540 that it was established and explained legally as the equivalent of çift. This was made necessary by Ebu’s-Su‘ûd’s clarification about taxes paid by the reaya. Since these taxes belong to the category of harâç, the land unit from which they were paid had to be legally determined. The process of application of Ebu’s-Su‘ûd’s interpretation of the mirî lands was completed by around 1570 (the preamble to the kânûnnâme of Üskûp can be seen as a part of that process). This process did not require reducing of diversity of taxes but defining their legal nature. Thus harâc-I muvazzaf, the portion of haraç that was paid annually in lump sum was paid under the name of resm-I çift by Muslim reaya, ispence by Christian reaya in Rumelia, and resm-I kapt by Christian reaya north of Danube. The harâc-I mukâsême, or the portion of haraç paid as a fraction of produce (either in kind or in money) that was known as oşr (tithe) became fixed at one-eighth in all lands conquered between the fourteenth and sixteenth centuries.\textsuperscript{31}

The main result of the application of Ebu’s-Su‘ûd’s interpretation of the mirî land regime can be summarized as follows:

1. Instead of reducing the diversity of taxes the definition of their categories was provided that even enabled further adoption and adaptation of local practices. Thus the unification and consolidation of the system is achieved through interpretation and not reduction.

2. In most of the provinces taxes from land were defined and fixed at one-eighth.

\textsuperscript{31} Inalcik, Islamization, p.110.
3. By 1570’s the system of taxation was unified and consolidated by determining that the taxes were paid from a land unit sufficient for sustenance of one family rather than from one household. While this change is visible only in several provinces of the Balkans where the Slavic baština was introduced as the fundamental taxation unit equivalent to çift, the principle is sufficiently emphasized in Ebu’s-Su‘ud’s fetvas as well as in the preamble to the kânûnmâne of Üskûp and obviously was known to the Ottoman administrators. The abandoning of the practice of tax registration represents the strongest proof that the improved system of taxation defined primarily by the land unit as fundamental unit of taxation was thoroughly applied.\(^{32}\) Once the proportions of produce collected as harâç were fixed, and the optimal quantity of all arable land was determined by registering the arable land, forests and all revenue-producing natural resources, there was no reason to continue the practice of tax-registration, because changes were unlikely. \(^{33}\)

*Maruzat*

\(^{32}\) Inalcik defines the fundamental taxation unit as çift-hâne, i.e. the çift unit + one household. This definition does not take into consideration the population growth and the fact that units could not be divided to accommodate more families. Also, the available arable lands were limited. We can only be sure that tax registers provide accurate information about the land units (çifts), but not the number of households, or demographic data in general.

\(^{33}\) Small changes in the amount of arable lands could take place through clearing the forest for example, but these changes were insignificant. Also, timâr holders probably would not have an interest in encouraging such enlargements, because the amount of revenues they were entitled to collects was fixed.
Historians agree that during Süleyman’s rule Sunni Islam was made the official religion, and the Hanafi legal school was made the official legal school of the Ottoman Empire. This event in Ottoman history is seen as parallel to the declaration of Shi’I Islam the state religion of Iran under the Safavid Shah Ismail. The main difference is that no such single declaration has been attested among the Ottoman documents or narratives, and that the Ottoman sultans did not impose such religious or legal orientation on their subjects. In other words, the law was not “fixed by the arbitrary will of the ruler” for people to “obey out of necessity or compulsion.”\textsuperscript{34} Instead, the sultan was asked to declare his adherence to Sunni Hanafi Islam, not as a matter of his own religious and legal orientation, but as a matter of joining the particular historical legal consensus, and acting upon it: as the caliph of the Messenger of God, hâkim ʿul-vakt, and imam (the leader of the community of believers). This consensus, mainly expressed as a preference for a number of legal opinions on issues of historical importance composed by the authoritative and prominent legal scholars of the past as result of the ijtihad (independent legal reasoning) was formulated by the contemporary Hanafi legal guild of the Empire represented by Ebu’s-Su‘ûd.

\textsuperscript{34} In his recent study entitled \textit{Islam and the Challenge of Democracy} Khaled Abou El-Fadl assumes that, in early modern times a Muslim jurist would distinguish three types of political system: one seen as uncivilized and anarchic, ruled by custom imposed by the strongest among the tribal leaders; another seen as tyrannical and illegitimate ruled by a prince or king whose word is the law; and the caliphate as the third and best system based on \textit{shari’a} law. (Princeton: Princeton University Press, 2004, p. 3) Yet, clear cases of imposing the word of a king as law on his subject are rare.
First, it is necessary to ascertain what constituted the aforementioned “event” of officially declaring the Sunni Hanafi orientation of the Empire. Since the “event” stretched over a period of more than a decade it is more appropriate to talk about a process. The process of declaring the Sunni Hanafi legal school the official legal school of the Empire evolved through identifying the legal issues that were considered crucial in the context of the relationship between religion and state and formulating them in the form of fetvas. These fetvas have come down to us in the collection known as Ma’rûzât. (Petitions or Submissions).

The Ma’rûzat collection is indeed the key document that bears testimony to this change, and also delineates and specifies it. Several of the petitions contain explicit statements that emphasize Hanafi legal orientation behind the opinion given in them. Most contain that statement by supporting the opinions given in them with quotations from the works of Hanafi jurisprudence.

In the introduction to one of the copies of Ma’rûzat\textsuperscript{35} it is stated that when Ebu’s-Su’ûd demanded from the sultan “the ordering of the (affairs of the) religion and state and arranging of the state of the dominion he submitted that it would be appropriate to act upon the pronunciations of some of the mujtahids among the authorities in religion (e’imme-I dîn) regarding some issues. The sultanic decree and

\textsuperscript{35} For this study I used the copy published by Akgündüz in the fourth volume of Osmanlî Kânûnînâmeleri. p. 35-59 (transcription), 6-75 (facsimile).
imperial decision were issued to act in that manner. The governors of Islam, the judges and the decision makers are accustomed to act in that manner."

It is important to note that it was Ebu’s-Su‘ūd who made request to the sultan asking him to order the affairs of the state and religion. It was Ebu’s-Su‘ūd who decided on the importance of the issues and provided legal opinions by following the opinions of the legal authorities of the past. Finally, it was also Ebu’s-Sū‘ūd who asked the sultan to act upon his caliphal authority and make these opinions into laws. The process of making fetvas into laws is the difference between these and other, “ordinary” fetvas of Ebu’s-Su‘ūd (or any other Ottoman jurist).

This lawmaking represents a new and unique Ottoman practice. Gerber argues that this collection represents “the kânûn legislation within the shari‘a – an area in which the Ottoman state never before or after dared to intervene in this way.” Many of the answers are concluded with the statement that ferman, or emr-i şerif is issued that made the given opinions the law of the Ottomans. Unlike Ebu’s-Su‘ūd’s interpretation of the mirî land regime, the ma’rûzât were never renamed kânûns. A closer look into the ma’rûzât reveals one important common characteristic: they were explicitly or implicitly addressed to judges and governors, not to the general public. This could be one reason why they did not acquire the character of kânûn.

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36 Ibid., p. 35, 60.

In order to establish whether these fetvas became kânûn law it would be necessary to follow each of these fetvas first through the legislative phase, and then through application, i.e. legal practice. Even without such research, however, it is possible to say that many of these legal opinions determined Ottoman legal practice. They, like most of the legal discourse examined in this study, display the socio-cultural aspect of law defined by the relationship between norm and behavior as noted in the introductory chapter. Practical concerns derived from behavior (or "facts of life") were formulated into a legal question (query) that was responded to by forming legal opinion. The legal opinion (especially in the case of the Ma‘rûzât) informed legislation that, in turn, determined (legal) behavior. The "golden age" seen from the perspective of law as culture is identified as a period of intensive dialogue between law and behavior. The discontinuation of such interaction marks the end of the "golden age" and beginning of decline. The decline so viewed and expressed is not necessarily accompanied by political or economic decline or even legal decline on the mere level of functioning of the legal system. On the contrary, the decline so viewed could be accompanied by greater stability, provided that a sufficient number of concerns are addressed and resolved successfully. Thus the decline is primarily cultural and intellectual.

Reconstructing the historical context and significance, in the contexts of relationship between the religion and the state, of each of these queries and answers would require a special study. There are several fetvas whose historical context can
be easily recognized because they interpreted issues that are reflected in Ottoman historical narratives and also recognized by modern scholars. Here I shall analyze two fetvas whose historicity is obvious as well as their relevance in the context of the relationship between the religion and the state. These two fetvas address issues related to the building of religious infrastructure in the Ottoman lands. Similarly to the issue of mîrî lands, this issue bears clear historical importance for the core regions of the Empire (western Anatolia and the Balkans) and especially the new acquisitions north of the Danube and Sava rivers. In the query about Muslim villages without mosque the following question is asked:

"If some Muslims had no mosque in their village, and do not perform communal prayer, is it necessary that the judge (hâkim-I şerî'at-I şerîfe) force them to build a mosque, and punish those who neglect to pray?"

Answer: Yes. The firm royal decree arrived to the governors of the Protected Dominions in year 944/1537 to enforce building of mosques on people of such villages and make them be assiduous in prayer. It is necessary to act in accordance (to royal decree). 38

The answer is followed by the quotation from "Hazînatu'l-Mufti'în":

"The call for prayer is one of the rituals of Islam. If a city, village or mahalla (neighborhood) resists the Imam should enforce it. If they still do not perform it he should fight them with weapons. And if inhabitants of a city abandon the call to prayer, performing the prayer, and communal prayer the Imam should fight them, because that is the landmark of the religion and its rituals. 39"

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38 Ibid., p. 35-36, 60 (facsimile).

39 "Inna 'l-adhâna min sha' 'irî Islâmî hatta law imtâna 'a ahl al-misrîn aw garyatin aw mahallatin ajbarahum 'al-imâmî fa in lam yâfâlā qâtalâhim bi's-silâhi. Wâ law ahl al-misrîn tarâkâ 'l-adhâna wa 'l-iqâmata wa 'l-jumâ 'ataqâtalâhum 'al-imâmî li annahu min ma'âlimî d-dîni wa shâ 'a 'irihi". (Ibid. p. 36, 60 (facsimile).
In the opposite case, where a mosque was built in an area, but became, due to reasons that are not explicated in the query, surrounded by the houses of non-Muslims, the answer is given, again supported by the existing authoritative interpretation (this time of Qadikhân), that the houses surrounding the mosque should be purchased by Muslims at (fair) price (baâları ile), and that the sultan’s order is issued to that effect. 40

In a large part of the Ottoman core provinces Muslims formed only a minority of the population. Nevertheless, it was crucial for the Ottomans to establish the Islamic identity of these regions. This became even more urgent in the historical circumstances discussed in this study. If the Ottoman sultan was to become the leader of Islamic renewal, and if he was to integrate the core Islamic lands with the core provinces of the Empire, then the Ottomans had to defend their image of ghazi warriors and the community that expanded the boundaries of Islam, and transformed lands without an Islamic past into lands with a manifest Islamic physiognomy. They also had to demonstrate that they deserve the position of leadership of the Islamic world, first and foremost in those lands where they formed their identity.

The story told in the preamble to the kânûnnâme of Egypt, of the Ottoman sultans who continuously struggled “to keep the structure of religion firm” had to be proven on the ground. The fact that the majority of the population remained Christian had no relevance in this matter, as the Ottomans had no means or authority to enforce

40 Ibid, p. 36, 60-61 (facsimile).
conversion. What was considered imperative was the duty to introduce Islamic worship, education, learning and welfare.

Ottoman sultans often, or perhaps even regularly, had built mosques (câmi'-I şerîf) in the conquered urban settlements and places of strategic importance. However, building places of worship was not in itself sufficient for the development of religious life. In some places dynamic urban settlements developed and large Muslim communities settled around these and other mosques built by either prominent Ottoman officials or prominent members of the communities these mosques were built to serve. In other places, the sultans’ mosques remained the lone monuments of Ottoman presence. In some situations, such as explained in the second query, the community either never developed, or perhaps moved further into new Ottoman territories, and therefore some mosques could become surrounded by the residential buildings of a Christian community.

While sultans’ mosques certainly contributed to the development of religious life, this was not the solution for the above problem. Religion, education, learning and welfare, and the infrastructure sustaining them had to grow from and satisfy the needs of the community that would either jointly build that infrastructure or establish pious foundations. Too visible role of sultan in this respect could result in the infrastructure that would not reflect the genuine religious life and learning, but rather an artificially made representation of it. With the solution found in the ijtihad of the Hanafi jurists of the past, however, the authority of the ruler seemed to be imposed over the affairs
of the community. The possible controversy involved in this issue rests on the definition of the affairs of religion and state (din ü devlet).

Communal affairs are not included in that definition and thus the sultanic legislative authority does not apply to communal life. On the other hand, jurists are the representatives of the community and their (public) authority is based on that representation. While the particular legal issue interpreted in the quoted fetvas cannot be examined here, the controversy of community affairs versus affairs of the devlet opens a set of questions that are relevant in the context of this study. First, it is important to examine which authority, or more precisely, which sovereignty has priority in this case, and thus in the whole process of establishing the Sunni Hanafi orientation of the empire. Both the query and response represent the communal, and not the sphere of the devlet. Even in the position of caliph (unless he is capable of juridical interpretation himself) the ruler can only derive his authority from fulfilling his role as the protector and not the representative of the community. The latter role belonged to the ulema.

The next question is about whose law the ma 'rūzāt and the sultanic decrees issued in accordance with them represent: are they laws the jurist’s (Ebu’s-Su‘ūd’s) laws or the ruler’s (the sultan’s) laws? As said earlier these laws were addressed mainly to lawyers (judges). It is safe to say that they were also made by a lawyer (jurist). They were presented to the sultan, who issued decrees making them the laws of the empire. As said earlier, by issuing decrees in accordance to the fetvas he allied
himself and the empire with the one particular legal school. Thus the real lawmaker here is Ebu’s-Suʿūd.

Further, the question must be asked about the position of Ebu’s-Suʿūd. In the Marʿuzat he acts from the position of juridical authority. As a public and not political position, the position of jurist did not rest on the authority of office. Still, it is important to bear in mind that he composed and submitted the petitions (Maʿrūzat) while still in the post of chief military judge (kadiasker) of Rumelia,41 before he became ṣeyhūlislam.42 Thus, his role as a representative of the legal school and its consensus cannot be explained simply by his authority as ṣeyhūlislam (whether in the capacity of the holder of the office or in the capacity of the expert of such rank). If Ebu’s-Suʿūd’s petitions were his own independent opinions, or more precisely, if the preferences for particular legal opinions were his preferences, then the Maʿrūzat could not represent more than a contract between a single jurist and a sultan. It is impossible to ascertain whether this was the case, since there is no evidence of what R. Repp calls “vetting process” or the process of collecting a number of fetwas on the

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41 Some of the scholarly discussions about Maʿrūzat are working with the assumption that Ebu’s-Suʿūd began submitting the petitions to the sultan after 1550 (Imber, Ebu’s-suʿūd, p. 107). Others recognize that some of the decrees issued in accordance to the petitions were issued while Ebu’s-Suʿūd was still kazıasker of Rumelia (R. Repp, The Mufti of Istanbul, p. 282).

42 Ebu’s-Suʿūd himself says that he became the ṣeyhūl’islām in 1550 (See Appendix D).
same issue.\textsuperscript{43} Neither is there evidence of discussion about the issues interpreted, in the form of treatises for example.

It is highly improbable that Ebu’s-Su’ûd, who was already, at the time of writing the petitions, a scholar of considerable standing, would dissociate himself from the ulema. Furthermore, this was impossible because through education, scholarly discussions (such as those about the issue of cash-endowment), legal practice (through judicial appointments of various ranks), teaching and reading he became not only associated with the rest of the ulema, but also with the kind of legal learning, with its preferences and indifferences, that was in itself a consensus of a sort.

\textit{Conclusion}

Scholars agree that Ebu’s-Su’ûd’s interpretation of the land and taxation system was the part of his juristic labor that gained him the reputation of the jurist who brought the kânûn into harmony with the shari‘a. However, the motives of this interpretation, as well as other juridical interpretations of Ebu’s-Su’ûd are explained exclusively by the political necessities. Thus, his interpretation of the \textit{mīrī} land regime is seen as fitting the Ottoman legal practice with the prescripts of the Holy Law. His early fetvas on what he defined as relevant legal issues of the time, which

\textsuperscript{43} In Repp’s view, however, the “vetting process” is initiated and coordinated by the sultan, not by the ulema.
he submitted to the sultan as petitions are seen as another service to the sultan with the main goal of enhancing the sultan’s authority, or to use the authority of the sultanate to innovate or even legislate, within the shari’a. In this chapter I argue for the opposite view. Instead of making the sultan’s new absolute authority the source of just order, he introduced the opposite logic according to which the realization of the just order was antecedent to the caliphal sovereignty. Ebu’s-Su’ud early juridical work inaugurated jurisprudence in the position of real sovereignty. He demonstrated that sovereignty by simple, yet masterful juridical interventions, and by defining of the legal principles that could sustain, systematize and re-form the existing legal practice, rather than question and reduce it. In addition to identifying the necessity of reviving, and bringing back to memory the knowledge that installed the mirī land regime in the position of dominant land regime in a large part of the Islamic world, he also determined the Sunni Hanafi orientation of the Empire by reinstating the law and legal learning in the position of legal sovereignty.

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CHAPTER FOUR
KÂNÜN LAW BEFORE AND AFTER SÜLEYMAN

One can argue that the intensive legislative activity for which Süleyman is remembered is simply a result of his long rule in the time following the great Ottoman expansion east and south, and during which he himself conquered large regions in Europe. Indeed, the period of Selim the Grim’s rule was also the time of intensive legislation, and so was that of Süleyman’s successor, Selim II. Only both these sultans ruled for a relatively brief period, while Süleyman ruled for more than four decades.

Many of the provincial kânûnânèmes from Süleyman’s time, and particularly those issued for the provinces where the timar system was in function and the land belonged to the category of erazi-I mîrî, resemble each other in structure, order of laws, and vocabulary. Others, containing the legislation for the Muslim lands conquered by Selim I and Süleyman himself, largely and admittedly adopted and adapted the existing legal practices. Both kinds of kânûnânèmes were issued in large numbers. During his rule Süleyman succeed in “covering” all of the lands with legislative documents regulating taxation and the sphere of public order. Thus again, it is possible to argue that Süleyman’s contribution to the Ottoman law was primarily
quantitative, rather than qualitative. This by no means disparages the importance of Süleyman’s legislative activity. If issuing laws under Süleyman became a routine then it must be noted that such a routine could only be a product of previous consolidation and unification of the existing kânûn law, and delegating the parts of, or the whole process of legislation to the administrative offices of the Empire. Indeed, a modern scholarly view of the kânûn law as the province of the nişancı (chief of the imperial chancery) conforms to the above argument.¹

The focus of the following chapter is twofold. In addition to analyzing the significance of Süleyman’s legislation as described above, I shall also address some less explored, and my view more significant changes: the change of the character of the kânûn law, the change in understanding legal authority, and the development of legal culture that can be best defined in terms of kânûn consciousness.²

Before examining the change it is necessary to reconstruct the historical background of the issue. First, it is necessary to briefly examine the legislative authority as understood and practiced by Turco-Mongol rulers in the post-caliphal Islamic world. Second, it is necessary to examine early Ottoman lawmaking.

*The Turco-Mongol and Islamic Heritage*


² The term is coined and discussed by C. Fleischer in *Bureaucrat and Intellectual*, pp. 191-200.
There is little evidence that the late medieval introduction in the Islamic World of the Turco-Mongol concept of sovereignty by divine dispensation caused disruption in the legal sphere. The ruler’s law seen as legislation of the will of the monarch was not what Turco-Mongol rule brought into the Islamic world. Rather, it was the concept of sovereignty wherein legitimacy was derived from the ability to exercise legal authority. Political authority was not antecedent to legislative authority. Instead, it was derived from the ability and power to provide justice. H. Inalcik noted, based on the statements in Kutadgu Bilig (an eleventh-century Turkic treatise on sovereignty and government written by Yusuf Hass Hacib, who was a chamerlain under the Karahanids), in the Turkic concept of state the törü law was the most important foundation of the state. According to the translator of Kutadgu Bilig the word törü means justice and cannot be extended to law. Thus, if political authority was derived from the ability and power of the sovereign to provide justice, then the divine dispensation was recognized in the personal charisma of a ruler, rather than in the divine facilitation of events and developments surrounding him and bringing him to power.

Even after they began to build splendid palaces and cities, the laws that the Turco-Mongol rulers issued remained the most important proof of their power and legitimacy. Rather than the borders determining the territories under their rule, the

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3 H. Inalcik. “Süleyman the Lawgiver and Ottoman Law,” Archivum Ottomanicum.

proportions of their *devlets* (both as expression of their political destiny and fortune, and as states) were defined and mapped out by the justice that they were able to protect and enforce. Their legislation mostly consisted of adopting the customs and legal practice of tribal and other groups that joined them or were forcibly incorporated into their *devlets*. Issuing laws was, at the same time, the act of declaring loyalty for those to whom the laws applies, and the declaration of sovereignty of the ruler over that group. The territory involved had a secondary importance, because the procedure was one of the socio-political contract.

Often, these laws were granted rather than actually made. What came to be explained in terms of Mongol tolerance expressed through legal and administrative systems practiced in the societies that came under Mongol rule, regardless of the creed or ideology that informed these systems, reflects the process of enlargement of their states through enlargement of the body of laws they were able to protect and enforce.

The more laws a ruler “issued” in this way the greater was his *devlet*. It is safe to assume that Süleyman’s appellation “Kânûni” acknowledges his extraordinary greatness exactly in this manner. Even though the appellation so intended and understood may appear anachronistic in the age that was agreeably the age of the full Islamic synthesis of the Turks and renaissance of Islamic institutions, their traditional understanding of the greatness of a ruler who proudly and successfully assumed the titles such as caliph and hakkim’ul-waqt resurfaced (or survived) in that appellation.
The memory of him, preserved in this appellation, reflects the perceptions of him as a ruler whose devlet was so large that, during the major part of his rule, he had to devote himself to continuous and intensive lawgiving.

The fact that the legal culture of the Turks survived and was incorporated into the new legal culture of the Ottomans, emerging in the sixteenth century, is one of the indicators of the formation of the Ottoman legal synthesis. The reasons for the survival of the Turco-Mongol legal culture within the Islamic world lie primarily in its appropriative character. Far from imposing "the king's law" the Turco-Mongol rulers fit into their new sovereignty of ʿuluʿl-amr easily, without disturbing the existing balance. They did not seek more, or a different kind of authority, as their devlets were primarily the military enterprises. The process of fitting and transition had been repeated in several cycles that can be identified with Turco-Mongol historical incursions (military and migrational) into the Islamic world. The rise and development of the Ottoman polity, from a primarily military enterprise into a world empire represent one such cycle.

_Early Ottoman Lawmaking_

Inquiry into the development of the Ottoman legal culture and the sultans’ legislative authority provides a unique venue into understanding the development of
broader societal, cultural and religious self-consciousness of the Ottomans. Inalcik describes the legislative aspect of kânûn in the following way:

"... a clerk attached to the office of the Nishândji or the Defterdâr drew up a hûkm in the form of a firman or a berât. This draft, after being checked by the Nishândji or the Defterdâr, was confirmed by the Grand Vizier, with the word sahh ("correct"). Important kânûns were confirmed by receiving the khatt (autograph minute) of the sultan."\(^5\)

While it must be noted that the early kânûns often resulted from less regulated lawmaking procedures than the one described above, it is also important, for the purpose of this study to add some elements that explain the philosophy of Ottoman (and Islamic law). Before the initial drawing of the hûkm there is legal practice that informs the hûkm. Legal practice includes custom (‘âdet), and laws of previous states that may or may not be identified as kânûns.\(^6\) Even though some spheres of Ottoman law such as criminal law, could be seen as more “Ottoman” than others, it is safe to say that Ottoman law equally drew on the available living laws, whether in the case of criminal law, law on land and taxation, or in the case of special laws regulating the legal status or economy of specific groups of population.

Before discussing the early Ottoman legislation based on a sample of laws that have come down to us it is necessary to clarify the early Ottoman position in regard to lawmaking. The early Ottoman appropriation and adaptation of existing legal

\(^5\) E12, vol. 4, p. 560.

\(^6\) Commonly, the term kânûn is used when the previous laws bore that name. Often, as in the case of the adopted laws in Runelia, one could only establish that the Ottoman laws represent modified legal practice of the previous states by comparing them with known laws.
practices cannot be explained in terms of Ottoman "flexibility." Flexibility as a self-conscious quality requires the knowledge and discussion of what is being bent and why. We have no evidence that Ottoman sultans and officials involved in lawmaking were involved in such discussion or produced such knowledge. The earliest known such discussion was offered in the preamble of the kânûnnâme of Egypt. Their basic position in lawmaking was to avoid a discord between kânûn law and the principles of the shari'a. They maintained that position not by engaging in or following the legal interpretation of the jurists, but mostly by relying on the long established and affirmed customary practices.

The distinctive feature of Ottoman law in regard to previous legal practices could be best explained by the example of criminal law. Uriel Heyd's analysis of the way in which the Ottomans resolved the dichotomy between shari'a and kânûn in old Ottoman criminal justice demonstrates that the Ottoman sultans were the only rulers (beside the Dulkadir Oğulları) who actually officially promulgated the customary criminal law in the form of legal codes, even though such laws existed before in many parts of the Muslim world.7 Thus the Ottomans did not introduce a new legal practice, but codified the existing one, and placed its application under the protection and authority of the sultans.

In a number of cases of non-Islamic legal practices that were adopted into Ottoman law and issued in the form of legal codes, the Ottoman confidence was

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based on the long tradition of adopting customs into Islamic legal practices. The process of adoption and legal reasoning behind this adoption can be best explained by the example of early laws on mining, and by the laws issued to various Vlach and other groups of population.

For example, in the hûkm issued by Mehmed the Conqueror to the miners of Sidrekapsı as a renewal of the kânûnnâme issued to them earlier by Murad II the sultan states that the infidel (gavur) miners from Sidrekapsı brought (emphasis mine) the old kânûnnâme to him, and he issued the new one based on it. The laws that follow regulate the taxes in silver stating precisely the fraction of silver that they owe as tax (one-twelfth), and the taxes from the agricultural produce (tithe). In addition to the exemption from most of other taxes paid by the reaya, the kânûnnâme imposes the obligation on the miners to sell their silver only to the agents and money changers (sarrâfs) of the imperial mint.\(^8\) This kânûnnâme regulates the legal status of the miners and taxation of their produce, and defines the relationship between the state and the miners.

Other kânûnnâmes on mining represent the sets of rules and regulations about the production in the mines. In these kânûnnâmes the sole role of the state is the acknowledgment and protection of the regulations that are formulated by the miners. By issuing these laws the sultan codifies the existing law and places it under his protection. At the same time, the act of issuing law brings about the inclusion into the

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Ottoman *devlet* of the group whose regulations are codified and issued in the form of kânûnnâme. One should not forget the purely practical purpose of this, which is obtaining the silver for the imperial mints.

There is a relatively large number of such kânûnnâmes that have come down to us. This reflects the importance of mining rather than common interest in such laws among the Ottomans. One of the most elaborate is entitled the *Kânûnnâme-I Sâsî ki ma'âdinde icra olinur* issued by Bayezid II. This kânûnnâme codifies the rules and regulations of mining practiced by Saxon (Sas) miners in the Balkans. The medieval Balkan kingdoms of Serbia and Bosnia brought Saxon miners to work in their mines. The techniques and methods of mining, as well as codes of profession they introduced formed the laws of mining that were later adopted by the Ottomans. Individual rules and regulations described in the kânûnnâme are referred to as ‘âdets (customs).

Similar to this kânûnnâme is the kânûn of the silver mine of Novo Brdo (Kosovo) from 1488. This kânûn is actually the adopted law of the Serbian king Stefan Dušan, who, similarly to Ottoman sultans, adopted the bylaws of Saxon miners. Since the original law of Stefan Dušan is preserved, it is possible to examine the process of translation of this law into Ottoman legal idiom. The changes that the Ottomans introduced are limited to the order and general language of exposition. Most of the

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technical terminology, which is a mixture of Slavic and German, and the content of
the regulations is adopted without change.\textsuperscript{10}

Similarly, the kânûns of different groups of Vlachs, which were discussed
earlier, were issued to various groups of Vlachs to confirm their old laws that were
often referred to as ādet-I Iflakiyye (the Vlach custom). The kânûns issued to the
Yörük groups are particularly indicative of the early Ottoman practices in lawmaking,
since the Yörük were pastoral semi-nomadic, Turcoman groups whose presence in the
territories under Ottoman rule was the result of the Ottoman conquest. These groups
helped the formation of the Ottoman military core, and had a decisive role in the early
Ottoman conquests. An undated kânûnnâme entitled Rûmilinûn Etrâkınıh koyun
‘ādeti hûkûmi\textsuperscript{11} that was issued on request of the official in charge of collecting taxes
from Yörüks settled east and north of the Maritsa river displays the legislative process
similar to the previously discussed laws. Their taxation consisted of the land tax in
amount of twenty five akççe and the customary sheep tax (koyun ‘ādeti) consisting of
one sheep from each hundred. Like all other taxes from produce, the latter tax could
be given either in kind or in money. This law did not impose the described taxes on
Yörüks. They were most probably already familiar with what is referred to as the

\textsuperscript{10} B. Đurđev examined the whole process of adapting the law by comparing the Slavic
original with the Ottoman kânûnnâme (Kako su i kada nastali Despot Stefana zakoni za Novo Brdo.

\textsuperscript{11} Ed by Akündüz, Osmanlı kânûnnâmeleri, vol. 1, pp. 505-508.
'ādet (custom). The collector of the taxes who is referred to as koyun 'ādetin tutan was also familiar with the 'ādet. He requested the law-containing order\textsuperscript{12} as a part of his official appointment. For the sultan, the act of issuing the law was the statement of authority and protection of laws, and inclusion under his protection and within his devlet of the mentioned group of Yörüks.

The examples of kânûnnâmes discussed above display a set of distinctive features of early Ottoman lawmaking. First, these laws were issued to population groups and not to territories. Even the early kânûnnâmes for the provinces (sancaks) which were recorded at the beginning of tax registers fit into this description, because the territory is not emphasized. Instead the laws address the categories of population, types of taxations, and crimes and punishments.

Second, the early Ottoman kânûns are not recorded regularly in the tax registers. Those that are recorded are not all placed at the beginning of the registers. Often kânûns applying to specific groups of population can be found in different parts of the registers introducing the registration of the taxes collected from the groups to which they apply. In all of the cases discussed above the laws issued were requested either by the officials appointed to collect taxes, or by the group to which the laws apply. They are issued in form of hükm (decree).

Third, in the early period, i.e. before the sixteenth century, laws issued in the form of decree were not regularly recorded in Ottoman registers. All of the laws

\textsuperscript{12} In the early kânûnnâmes, the term hükm-ı kânûnâme (or kânûnâme hükm) is often used to describe the decree that confirms and contains a codified law.
discussed above have come down to us in copies made later, and as parts of the compilations of various Ottoman laws. The introduction to the first kânûn discussed above informs us of the practice according to which those who requested the law (i.e. the miners of Sidrekapsi) had the responsibility, or interest to preserve the decrees of the previous sultan and present it to the current sultan in order to obtain the renewal of their status.

Thus, as already noted by D. Howard, although as a general statement about the kânûnnâmes, the early Ottoman kânûnnâmes were written “not to a popular audience, but to professionals, judges, scribes and administrators.”\(^{13}\) To this list, those to whom the kânûnnâmes concern should be added.

All of the described features of the early kânûn law were changed or modified during Süleyman’s rule.

*Kânûn law in the Age of Süleyman*

Two interrelated developments define the change of Ottoman kânûn during Süleyman’s rule and in the following decades well into seventeenth century. One is the discussion of the kânûn law and its underlying principles. This development began with the preamble of the kânûnnâme of Egypt and intensified in the period from the mid sixteenth century through mid seventeenth century, through diverse genres and idioms, many of which were not legal *stricto sensu*. The second development can be described as compilation, consolidation and systematization of

\(^{13}\) D. Howard, “Historical Scholarship and the Classical Ottoman Kânûnnâmes,” p.80.
kânûn law. Again, the statement of necessity of such a project and the announcement of its completion was first made in the preamble to the kânûnnâme of Egypt. The difference between this project and earlier projects of compilation of the kânûn law is in the pronouncement of its purpose and in the obvious influence that it had on the intensity and uniform character of the lawmaking in the core regions of the Ottoman Empire.

In his work on Ottoman criminal law U. Heyd noted the importance of the preamble to the kânûnnâme of Egypt as the first Ottoman document that discusses the justification for the issuance of kânûns.\textsuperscript{14} The preamble evokes the well known hadith that legitimizes and encourages the creative legislation, and justify the shari‘a validation of the custom: “My community will not agree on error” and “What is practiced through customary law is what is permitted by the shari‘a.” The preamble describes the compelling situation that the early kings and rulers of Islam came into regarding the instituting of the shari‘a. As it became impossible “to cut the dispute and opposition with the sword of the tongue of saints of the shari‘a, it was perceived necessary to treat them by means of the tongue of the swords of governors of secular punishment (siyâset).”\textsuperscript{15}

The nature of the Ottoman laws as old customs continued to be emphasized in the laws and legal discussions throughout the sixteenth century. By the sixteenth

\textsuperscript{14} U. Heyd, Kânûn and Sharî‘a, p. 3.

\textsuperscript{15} Appendix A, p. 183.
century, as a result of interpretation and consolidation of the Ottoman kânûn law, oldness became the quality attributed to Ottoman kânûn law in general. Before the interpretation and consolidation of that law, there was a brief period when the Ottoman legal practices came to be seen as a system that perpetuated errors. Thus the kânûn becomes the lead that welds the structure of religion (dîn), and the means of preventing disorder and oppression. The Ottoman sultans in particular are described as consistent and unyielding in their efforts to ease “the conditions of mankind” and satisfy “the hopes of those in need.” As a result of that continuous effort “they laid down a desirable just method and a just imperial kânûn.” Thus, the preamble introduces a new attitude toward kânûn law. While, as said earlier, the Ottoman legislators took care to avoid the discord between kânûn law and shari‘a, the preamble claims the full accord of kânûn law with the shari‘a. Needless to say, this claim does not indicate any major changes in the kânûn law.

The difficulties that Süleyman faced during his early rule, especially in regard to integration of the lands conquered by his father are resolved by preparing a summarized narrative of “all of the kânûn and interpretation of the (past) centuries of the dominion,” and appointing a capable grand vizier. The preamble refers to the compilation made by M. Celâlzâde (who is also the author of the preamble). The compilation was most probably made during the early years of Süleyman’s rule, and

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10 Appendix A, p. 185.

17 Celâlzâde’s compilation of the kânûn laws
prior to the preamble of the kânûnname of Egypt. Inalcik and other scholars noted that, since the compilations of the kânûn law had been conducted earlier, beginning with the compilation of laws issued by Mehmed the Conqueror, the compilation made during Süleyman’s rule cannot be seen as a new practice.

Indeed, like any other legislators, the Ottoman sultans preferred to emphasize the oldness of their laws rather than their novelty. They relied on their legitimacy as a long established and affirmed practice (‘örf). The fact that the compilations from Bayezid’s to Süleyman’s share similar and even identical laws reflects the cumulative character of the kânûn law. These compilations collected the imperial custom, not the laws formulated by each of the sultans. The imperial custom, as C. Fleischer noted, “had prescriptive force even when unwritten”, and “successive sultans built upon and adjusted, but never fully abrogated, the laws of their fathers by issuing their own supplemental codes, reaffirmations, and revisions of standing legislations (adaletname).” The document known and referred to as the Kânûnname of Süleyman indeed displays the cumulative character of the dynastic law. In order to

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18 While Inalcik questions the authenticity of the Kânûnname as a product of compilation that took place during Süleyman’s rule, by referring to it as “so-called kânûnname of Süleymans (Süleyman the Lawgiver, p. 117 et passim), other scholars date it at the very beginning of Süleyman’s rule (H. Hadžibegić, “Kânûnname sultana Sulejmana Zakonodavca iz prvih godina njegove vladavine,” GZM, 4-5 (1950): 287.

19 Inalcik, Süleyman the Lawgiver, pp. 117-126.

20 C. Fleischer, Bureaucrat and Intellectual, p. 198.

21 Here it must be noted that the extant copies Celâlzâde’s compilation bear the title of the Kânûnname of the Ottomans, not of Süleyman. Different variants of the title include: Âyın-ı Kavâʾid-ı
readdress the question about the distinctive accomplishments of Süleyman’s legislation, already raised by Inalcık,\(^22\) it is necessary to first, compare the compilation of the kânûn law issued during his rule, and those of Mehmed the conqueror, Bayezid II, and Selim I. Second, it is necessary to see what effects Süleyman’s (or rather, Celâlzâde’s) compilation had on legal practice, and legislation in general.

Without comparing the content of the mentioned compilations,\(^{23}\) some manifest differences can be noted. The compilation made during Süleyman’s rule is preserved in numerous copies and in different places, which indicates the familiarity of Ottomans of different professions and interests with this collection. Other compilations are preserved in a small number of copies, often made during or after Süleyman’s rule. This confirms H. Inalcık’s assumption that Süleyman was perhaps “the first to have the idea of officially distributing copies of the general Ottoman kânûn-nâme to the courts of law.”\(^{24}\) Another difference is in the possible influence and practical use of these compilations. Modern scholars adopted the view of these compilations as general kânûnnâmes (as distinguished from the special kânûnnâmes

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\(^{22}\) Inalcık, Süleyman the Lawgiver, p. 106.

\(^{23}\) The only research of this aspect of the compilations so far, was conducted by U. Heyd (Studies in Old Ottoman Criminal Law. Oxford: Clarendon Press, 1973, 18-37.

\(^{24}\) H. Inalcık, Süleyman the Lawgiver, p. 116.
and provincial kânûnnâmes). Inalcik, who coined the term, describes the general kânûnnâme as the type of kânûnnâme that was in force throughout the Empire, and identifies the beginning of its development with the reaya kânûnnâme of Mehmed the Conqueror. This description, however, can only apply to Celâlzâde’s compilation, as it is evident that this kânûnnâme circulated through Ottoman courts, administrative offices and private collections. Even with this evidence, it is still necessary to demonstrate how and whether it served as a general code, referred to in legal practice.

It is not possible to prove the general character of this compilation exactly in the way Inalcik described. However, it is quite possible to ascertain the effects it had on the kânûn law. It is evident that this compilation of laws, that was systematized and organized into chapters and subchapters became the model after which the provincial kânûnnâmes were composed. From the 1530’s the provincial kânûnnâmes follow the model of this compilation. Also, since the standard of composition was established in this way, the provincial kânûnnâmes came to be issued regularly, for each province. Issuing of the provincial kânûnnâmes became the routine job of the Ottoman administration. All of this, however, applies to the kânûnnâmes of the provinces within the mîrî lands. Other provincial legislation, outside the mîrî land system, also benefited from the systematization of Ottoman law. However, it differed significantly due to social, and economic circumstances, as well as due to the legal past of the provinces to which they applied.
The provincial kânûnnâmes did not only follow the model and structure of Celâlzâde’s compilation. They also, in many cases, represented only slightly different variants of it. In other words, they became as “general” as the model they followed, and could equally represent the Ottoman criminal law, law of land and taxation, and the sample of special laws regulating rights and duties of the groups with special status.

The preamble to the kânûnnâme of Egypt declares the Ottoman kânûn law a perfected and final legal system, thoroughly interpreted and according with the shari‘a. No such concept of law could be accepted by the shari‘a minded, and the reaction followed soon in the preambles to the kânûns of the Rumelian provinces. Both the action of the Egyptian preamble, and the reaction in the Rumelian preambles spoke in the name of the sultan. Thus, they had clearly a political character. As said earlier, another reaction, that of Ebu’s-Su‘ûd, introduced the new agenda of renewal. Even though, Ebu’s-Su‘ûd used the space of preambles to the laws he initially did not intervene directly in the kânûns, or make references to kânûn regulations. Instead, he first reclaimed the representative authority for the ulema, through the interpretation of the mirî land regime, and through petition to the sultan requesting sanctioning of his legal opinions. He assumed the role of “we” (representing both the ulema and the community), while those formulating the imperatives of renewal as presented in the Egyptian and Rumelian preambles, spoke for the (ceremonial) “he,” i.e. the sultan.
Ebu's-Su'ud's success in reclaiming the legal sovereignty and the representation of the community for the *ulema*, and thus transforming the law into a separate authority, can be demonstrated by the developments of the late sixteenth and seventeenth century. In that period the *kânûn* law, and the interpretation and discussion of it gradually disappeared from the tax registers, *fetwas*, historical and other literary genres, and *miscellanea mecmuas*. Unlike the early *kânûn* law that was the property of the sultan and those to whom it applied, during Süleyman's rule the *kânûn* law becomes common property. From the mentioned spaces, as well as from the space of oral memory it reappears again, when necessary, in the sultanic decrees that claim protection and guarantee enforcement of the laws already agree upon by the various professional associations (guilds). The circle becomes renewed in which behavior informs norm and norm regulates the behavior.

*Epilogue: Law as Common Property*

From mid sixteenth through mid seventeenth century the *kânûn* law, its compilations (official and unofficial), and discussions and interpretations of it appear in every possible literary medium. Aside from legal scholars a variety of authors take interest in the *kânûn* law. Some authors belonging to the high administrative and military ranks, such as Lütfi Pasha, felt authorized to “compile” the *kânûn* law and
present it in their own words.25 Others, like Evliya Çelebi, following the model and language of the kânûnnâmes, systematized what they saw as system in practice since the time of Süleyman.26 From the late sixteenth century, the copies of kânûns found in the court registers (siccils) are often enlarged by explanations. Also, they almost regularly include a number of fetvas interpolated in the text of kânûn, and containing the interpretation of it. The late sixteenth-century copies of Celâlzâde’s compilation display similar interventions; they are also enlarged by explications of laws. These copies are not the official copies issued by sultans, even though one must assume that their authors were scholars and officials involved either in application or interpretation of the kânûn law in some official or advisory capacity.

Finally there is a large and diverse corpus of works that discuss kânûn law either within the genre of nasihat nâme or within various historical genres. The latter literature can be defined as civic narratives. Even though many known authors within this field belonged to the Ottoman bureaucracy or judicial apparatus, they did not compose their works in that capacity, but rather as concerned individuals. Almost all of these works contain critique of contemporary legal practices and recommend and elaborate changes that they consider necessary for the improvement of the system.

25 This work of Lütfi Pasha was published in several editions. For this and other similar works, as well as for the editions of the Ottoman kânûnnâmes, D. Howard’s article represents an excellent and most complete source of information published so far (see his Historical Scholarship and the Classical Ottoman kânûnnâmes).

26 What Evliya Çelebi presents as the kânûnnâme of Süleyman is a systematized description of the Ottoman provinces: their ranks, number and value of timars, zêâmets hass, and number of soldiers (Evliya Çelebi, Seyhâtnâmé. Topkapi Kütüphanesi, Bağdat 304, ff. 49a-57a).
Their critique is often severe and unrestrained, and it is written to be heard and read. The level of freedom expressed in these works, and the sense of common responsibility they share with other mentioned works, as well as the interventions in the kânûn law by legal scholars and authority over its application assumed by judges, all testify to a change in the character of law in Süleyman’s time. The ruler still personifies the law as the ultimate authority. However, this aspect of his authority becomes highly symbolical as the law comes to be seen and understood as common property.

Finally, in the context of law as private property, the issue must be addressed of confusion between “unofficial” and “official” kânûnnames, between the compilations that are entitled “kânûns” and “kânûnnames” and official documents issued and authorized by sultans. To the category of “unofficial” kânûnnames belong the texts such as the aforementioned Evliyâ Çelebi’s kânûnname, the well-known Kânûns of the janissaries (Kavânîn-I Yeniçeriyan)\(^{27}\) and numerous bylaws of Ottoman guilds most often referred to as ’âdet (custom).\(^{28}\) It is easy to see why the bylaws of guilds or kânûns of janissaries cannot be seen just as “literature” (oral or written) but as customary law that was legally binding. In the legal tradition of Islam the

\(^{27}\) Facsimile and Russian translation published by I. E. Petrosyan (Mebeile-I kânûn-I yenîçeri odâzî tarihî/ Istoriiia proiskhozdeniiia zakonov Yaniçarskogo korpusa, Moskva, 1987).

\(^{28}\) So far, there is no written records of the bylaws of guilds, but the bylaws are often referred to in court registers as “old customs” (See: Haim Gerber, State, Society and law, pp. 113-126). Other guild documents and texts have come down to us represent the organizational aspects and rules of behavior, such as guild registers and fitâvvetmânes (See for example: R. Hajdarević, Dešter fi sarajevskog sarackog esafta, 1726-1823 (prijevod), Sarajevo: Istoriski arhiv Sarajevo, 1998; A. Gölpinarlı, “Burgazi ve Fütûvvetmâesi.” İktisât Fakultesi Mecmuası (1954):76-154).
legitimacy of custom was based on the consensus of the people who developed it, and voluntarily obeyed it, and on its capacity to support and ensure the state of order in society. The only condition for sanctioning such custom (either official, juridical or by acclamation) was the absence of conflict with the divine law. Thus, it is possible to say that the kânûnname of janissaries is less a kânûn than officially issued kânûns. However, the confusion between the "official" and "unofficial" laws can be best resolved on the example of Evliyâ Çelebi's kânûnname. All of the regulations and practices that he describes (and they all relate to administrative and military system of the Empire) could be ascertained on the basis of written documents already issued by the state, and deposited in the state archives. Instead of undertaking a research based on official documents he decides to rely on his own observation of legal practice, and most probably, information collected from local officials, and approaches the issue like everything else he included in his travel book. As an author of a travelogue his literature is ocular-centric. The value of the "kânûn" that he records, however, is quite different than the value of descriptions of local customs and "garâ'ib" as social and cultural material. It is defined by its long established practice. He attributes the "kânûn" he observes to Sûleyman the Lawgiver, even though the Lawgiver never issued such a law, except perhaps in fragments. Again the 'kânûn" that he describes is no less a kânûn than the officially issued laws. In Evliyâ’s eyes, it is even more so, because he witnessed it as a long-established practice that perpetuated itself even without the strict control of the state.
PART THREE

CONSENSUS OF THE IMAGINED COMMUNITY: LAW AS CULTURE
CHAPTER FIVE
THE OTTOMAN LEGAL GUILD

Rather than by being announced by a specific “key” document or a group of
documents the establishment of a distinctively Ottoman Hanafi legal guild during
Süleyman’s rule can be detected through references in various documents, legal
treatises, legislative material, as well as through the establishment and regularity of
registers that bear witness to the organizational patterns of legal and educational
institutions and legal and educational professions. One document, or rather a register,
stands out as the mark of the event that is defined as the establishment of the
mentioned legal guild. That is the register of the graduates of the Ottoman medreses
of the highest rank. The register is established in 1537.

While the educational and judicial institutions established by the Ottomans,
albeit on a much smaller scale, were long in function in the core Ottoman provinces,
their graduates did not necessarily have a prominent standing in Ottoman intellectual
life, and did not engage in religious and social life of the Ottomans to the extent of
forming an Ottoman religious and legal self-consciousness.¹ Information about the
main developments bearing witness to the establishment of the Ottoman legal guild

¹ The most prominent scholars of the early Ottoman period were educated outside the
Ottoman principality, and the majority of those included in the biographical dictionary “Ash-
Shakâ’ik’un-Nu’mâniyya” were originally from the Karaman principality (See: Cev. t Izgi, Osmanli
Osmâniyye’nin Teessüs ve Takarruru Devrinde İlim ve Ulema,” Davrîlînên Edebiyat Fahîtesi
Mecmuası, 2 (Istanbul 1332): 137-144.
can be deduced from a variety of sources representing the newly emerging Ottoman legal discourse and the discourse on law. One can easily see and even date developments such as legal (Hanafi) and theological (Māturīdī) profiling of the Ottoman religious disciplines, the development of the network of legal profession, proliferation of pious endowments in western Ottoman cities funding madrasas of all ranks, as well as the large impact of legists on the society as whole, and the unprecedented involvement of jurists and scholars of all disciplines in the matters of law.

The development of the Hanafi legal guild is simultaneous with the Hanafi legal profiling of the Ottoman Empire discussed in chapter 3. The main protagonist of both developments was Ebu’s-Su‘ūd.

As explained earlier, the declaration of the Sunni Hanafi legal school as the exclusive school to be applied in the Ottoman legal system cannot be seen as a change that served exclusively the political consolidation and integration of the Ottomans in face of the Safavid menace. The broader context of the scholarly involvement in the conceptualization of the Ottoman legal self uncovers a common matrix behind both Safavid and Ottoman political enterprises: that of the renewal and recreation of Islam. After a period of experimentation, with the appointment of Ebu’s-Suūd in the position of kadiasker of Rumelia begins the period in which legal learning assumes the role of leadership of this renewal.
The fact that jurists could come into prominence guiding and informing the revival should hardly be surprising, especially in the context of Süleyman’s early claim of caliphal authority. However, their strong and direct involvement in the renewal became possible only after the renewal became primarily a legal project. The early caliphal claim was not based on an elaborate juridical interpretation of caliphal authority but rather on the emotional energies of messianic expectations. It was only derived from, and secondary to the messianic claim. In order to lead the renewal, and conceptualize the new equilibrium of Islamdom the jurisprudence itself had to reorganize its resources to serve and comprehend the whole society and not the self-contained fragments of it. Before representation of the universal community could be claimed, the leadership of the scholars representing the distinctively Ottoman legal knowledge had to be defined in the Ottoman core regions. Not only the knowledge had to be structured, but in order to claim meaningful representation a network of scholars and judges had to be identified through establishment of a legal guild.

The definitions of belonging to a corporate body, whether a trade guild, Sufi tariqah, or associations of the learned, were not made in form of “charter of establishment” but in the form of defining and displaying the lineage of knowledge, esoteric or exoteric. The appearance of guilds in Islam of the post-caliphal period does not mark the end of the insistence of the early Muslim societies on individual interests over collective ones that gave no standing to corporate bodies, apart from the
Muslim *umma* itself. Rather, it resulted in the development of corporate bodies of peculiar character. What formed the self-consciousness and ties of affiliation of Muslim trade guilds, for example, was the genealogy of particular skill or knowledge expressed through the identification of the chain of individuals that personified that skill or knowledge throughout history. In the case of trade guilds the genealogical chain mostly went back to the figures of “patron saints” or progenitors who belonged to the circle of the Prophet. The Ottoman *şerefe/pirname* of the trade guilds, the *silsilе* of the Sufi tariqahs, and the *salaf* of particular branches or individuals in the field of legal or other disciplines of thought all represented the genealogical documents that needed to be recomposed every time a new link was added to the chain of specific knowledge. This was not entirely a technical process, for the composition of a particular genealogy often engaged in defining the continuity that was determined by a particular time and space, and a line of thought, in additional to the standard body of sacred figures that was often shared by various guilds (such as Adam, Idris, Muhammad, Ali etc.). Similarly, from the late Middle ages, the legal guilds began to originate their genealogy from venerated master jurisconsults as vicars of the Prophet, “assimilating the members of the guild to his Companions”, thus transforming the *madhhab* into “personal” schools rather than maintaining their

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initial geographical designation. In addition to defining the profile of knowledge and the self-consciousness of the group that formed around the new link personified in an individual leader (pir/shaykh/ra’is/ustâd), the genealogy was the document or statement that served as a certificate of authenticity of skill or knowledge transmitted and recreated in particular time or circumstances. How does this apply to the legal guild?

The above-mentioned documents pertaining to the later Ottoman trade guilds (esnâfs) do include the bylaws of the trade, rules of conduct, and functioning of the guilds. Also, different Sufi texts are abundant with records of the sûlisles of the particular branches of Sufi tariqahs as well as with descriptions of the particular Sufi paths of mystical discipline. Even though a legal guild, for all apparent purposes, would not seem to require similar texts of a genealogical nature or rules of conduct, it would be wrong to assume the absence of the same or similar ties of association in the field of law, or any discipline for that matter. The genealogy of knowledge was, and continued to be the omnipresent feature of the intellectual history of Muslim societies. It remained the conditio sine qua non, both in the accounts about the work

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of others and in personal statement of scholars. Rather than establishing one’s belonging to this or that school of knowledge, legal school, or branch of knowledge, the imperative was either to state one’s predecessors and teachers (in biographies and historical accounts), or state one’s personal genealogy of knowledge, one’s intellectual lineage through the choice of authors and works to comment upon and discuss. Therein lies the source of proliferation and dominance of the works in the genres of sharh (commentary) and hashiyah (marginal annotation/glossa), as well as meta-commentary and meta-glossa.\textsuperscript{5} Even outside of these genres the scholarly discussion in any discipline had to meet the requirement of placing one’s argument within the context of the learned genealogy, and measuring one’s standing against the standings of one’s forefathers, predecessors (salaf) in a particular line of argument. While the stress on the genealogy of knowledge may be easily understood in terms of agreement upon specific methodology, and requirement of academic grounding, it has led some modern scholars to understand it in terms of dependence on the tradition that limits the authority of a legal scholar, and the requirement of fixing (emphasis mine) the origins of one’s scholarly authority in divine revelation.\textsuperscript{6}

Establishing the chains of intellectual lineages is not in itself a sufficient proof for the existence of intellectual associations of the guild type. The main difference

\textsuperscript{5} The dominant place that these genres occupied in scholarly production of the post-classical period became the basis for the modern scholarly evaluation of the whole post-classical period in general, and the “age of nomad prestige” in particular as uncreative, and lacking originality and relevance to its contemporary circumstances.

\textsuperscript{6} C. Imber, \textit{Ebū’s-su‘ud}, 34-35.
between the trade guilds and spiritual brotherhoods on one hand, and associations of
the learned on the other, lay in the stronger ties of dependence and more elaborate
hierarchy of the former, and in the ties of intellectual solidarity, and stress on
individual thought within the common framework of the accepted postulates of the
latter. In the organizational aspect the main difference is evident in different level of
capability to adapt to the politically fragmented Islamic world of the “age of nomad
prestige”. For the association of jurists could neither follow the lines of political
fragmentation nor could they, like guilds of trades or Sufi tariqahs, easily transcend the
political borders. Due to the exclusively spiritual nature of their lineages, and disregard
for the worldly, socio-centric concerns, both trade guilds with their emphasis on the
spiritual ties of *futuwwa*, and the Sufi *tariqas* were able to flourish in the post-caliphal
period by forming their alternative, anthropocentric, world that could embrace and
include the intellectual and spiritual curiosity of the learned, influence the piety of
masses, and command respect and gain following among the ruling elite both within
and across the world of the Turco-Mongol empires of the time.

On the other hand, while individual rulers might choose to pay respect to the
guardians of the shari‘a, especially when they emerged out of the loneliness of the
independent and self-contained world of the shari‘a-minded comprehension of worldly
affairs to gain a larger popular following or simply command the attention of the
sovereigns, they did not necessarily rely on them for the legitimation of their
sovereignty. To claim authority and command audience, the jurists had to, at least in
theory, represent the consensus of the Muslim ummah. That however, was an impossible project, because it stood in conflict with the balance of political power. Political power was based on, and proportionate to the military might. It could not yield to the reintegration of the ummah and reestablishment of the communal unity without the immediate collapse of the political order.

When, in the early sixteenth century the Islamic world became overwhelmed by the revivalist zeal informed by the messianic expectations of the time, the reintegration was initially sought through lining up behind the various claimants of the messianic leadership. The advantage of Süleyman’s position was in the throne of Selim who defeated all of the armies of the region, even those led by the commanders who claimed divine designations. This, however, did not mean much, without manifest proof that the leadership of renewal belonged to the house of Osman, and to the young sultan. Süleyman and his lineage were still foreign to most of the regions his father conquered. Capable Ottoman administrators led by Celâlzâde succeeded to introduce Ottoman government in Egypt. The imperial government and military establishment were equally successful in transforming the military campaigns into an imposing display of Ottoman military and administrative knowledge. These accomplishments may have been sufficient to support Süleyman’s political claim over the territory conquered by his father. However, in order to claim that the point of balance between the universal sovereignty and the universal community of believers would be determined and established in the lands hitherto known as the sultanate of Rum, it was necessary to present proof of the
existence of a distinctively Ottoman knowledge and juridical tradition. Süleyman could not speak for that, not even through the lofty compositions of Celâlzâde.

As demonstrated in previous chapters, for two decades following his enthronement the legal and political system of the empire did not correspond to Süleyman’s initial declaration of perfected law and order, as well as his claim of caliphal authority. The initial success of the legislation in Egypt was not followed by the similar development that would lead to further affirmation of Ottoman kânûn and justification of Süleyman’s claims. Instead, this period of his rule can be described in terms of search and experimentation. It took the vision of a lawyer of elite upbringing, Ebu’s-Su’ûd, to awaken the zeal among the legal scholars and intellectuals for the project they saw as the major revival of learning and the introduction of the dominance of the expertise of the learned. Part and parcel of this project was the formation of the Ottoman legal guild. At the same time the formation of the Ottoman legal guild, as the representative of the community of believers, provided the only legitimate body to grant and express the consensus of the community of believers.

As said earlier, in order to trace the formation of the Ottoman guild of law it is necessary to examine various materials that conform to the conditions for the existence of legal guilds. According to G. Makdisi’s analysis and adaptation of Gabriel Baer’s

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7 This description of the period is argued and formulated by C. Fleischer (Master of the Age: Süleyman the Lawgiver and the Remaking of Ottoman Sovereignty (1520-1566), unpublished manuscript, p. 2)
definition of professional guild in Middle Eastern History\textsuperscript{8} the six conditions that are necessary for the existence of a guild are the following:\textsuperscript{9}

1. "all the people occupied in a branch of "learning, i.e. legal studies;

2. "within a definite area," i.e. Islamic city, e.g. Baghdad;

3. "constituting a unit," i.e. madhab;

4. "which fulfills at one and the same time various purposes, such as"

(a) "restrictive practices," e.g. restricting legal studies to the members of the madhab; restricting fellowships to graduate students chosen by the master; restricting the mastership (doctorate), to graduates who have fulfilled the requirements to the satisfaction of the master-jurisconsult;

b) "and social functions," e.g. issuing legal opinions to the people soliciting them; providing education in the religious sciences and the auxiliary literary arts; and

\textsuperscript{8} Baer states that existence of guilds as professional organizations can be validated “if all the people occupied in a branch of the urban economy within a definite area constitute a unit which fulfills at one and the same time various purposes, such as economically restrictive practices, fiscal, administrative or social functions. A further condition is the existence of a framework of officers or functionaries chosen from among the members of such a unit and headed by a headman.” (G. Baer, "Guilds in Middle Eastern History", In M. A. Cook ed. Studies in the Economic History of the Middle East. (London:Oxford University Press, 1970), 12.?

\textsuperscript{9} Makdisi, The Rise of Humanism 21.
5. "the existence of a framework of officers or functionaries chosen from among the members of such a unit," e.g. professors of law, deputy professors, repetitors, monitors, etc;

6. "and headed by a headman," i.e. by ra'ís al-madhab, which means the head of a madhab, in a given locality.

Makdisi’s discussion of legal guilds is not only limited to the classical period, but it is also determined by the specific circumstances of that period. The coming into existence of the legal guilds is described in terms of protective measures of the jurists against a recurrence of Rationalist hostility. Also, he identifies the rise of institutions of learning, the mosque-colleges with the rise of guilds of law. Another important relationship that he establishes as determinant of the rise of legal guilds is the one between the institutions of learning and the charitable trust (waqfs). As the only form of perpetuity in Islam the charitable trusts were under exclusive and complete control of jurisconsults. \(^{10}\) Thus, the perpetual character of the charitable trusts, their independence from interference by political authorities, on one hand, and jurisconsults’ control over them, as well as their own independence from the political authorities on the other, can be seen as a set of conditions in place that served as the basis for the perpetuity of legal guilds and their independence.

Alongside the issue of development of legal learning along the lines of professional solidarity and hierarchical gradation there is another important issue: that

\(^{10}\) Makdisi, The Rise of Humanism, 16.
of the early assumption of the representative authority of legal scholars in the matters of bringing the religion or the life of piety (dīn) into agreement with the world or worldly life (dunyā). In other words, another venue of inquiry into the development of legal guilds should be the communal responsibility of the jurists to ensure consensus (ijmāʿ). Even under the circumstances when the community of believers became divided along the lines of political fragmentation, the communal consensus on a smaller scale was to be granted and realized through juridical interpretation and guidance, to assure the members of a community that their conduct of worldly affairs was valid. Therefore, the role of legal guild was additionally strengthened by their role in shaping the communal prospective of what was meant to be a Muslim in any given time and place, and to make sure that the religious self-awareness so assumed was in conformity with a broader, cosmopolitan religio-juridical convention. While this communal prospective came to be formed by and around a single legal guild it cannot be identified as partial or local, but rather as a projection of a broader imagined consensus of a broader imagined community.

We know virtually nothing about the history of legal guilds in the period between that examined by Makdisi and the period under consideration here. This is mainly due to the scholarly approach that places and limits the socio-centric position of the legists within the confines of their contemporary polities. In other words, the relationship that legal scholars examine, the one between religion or pious life (dīn) and world or worldly affairs (dunyā) is often seen as practically identical to the one by which
the politics and political authority is concerned: the relationship between religion or pious life (din) and political conjuncture (dawlat). Even though the coordinates that determine the substance of any given dawlat may be largely set by the sentiments, preferences, and the dialogue shaped by the members of the community of learned, the authority of those entrusted with the affairs of din and dawlat, i.e. the political sovereigns does not necessarily and thoroughly extend over the affairs of the learned. Consequently, the history of education or legal apparatus cannot be identified, at least not completely, with the history of a given polity without serious and essential omissions. We don’t learn much about functioning of the law and about the education of lawyers merely by identifying the schools founded by sovereigns, or by establishing the patterns of appointment of the highest legal offices in a given polity.

How is this reflected in the scholarship on the history of Ottoman education and jurisprudence? Establishing new schools by members of the Ottoman dynasty on the newly conquered Byzantine territories, the territories without the (Islamic) past makes the perfect beginning point for the history of Ottoman education. This beginning date links the history of Ottoman education with an important political change.

The historiography of the Ottoman learning establishment operates with premises that belong to political, rather than intellectual history. Thus, the beginning development of the distinctively Ottoman learning is dated and situated within the time and territory of the early Ottoman state. Indeed, one can hardly overlook the fact that the earliest Ottoman madrasas were established by the Ottoman rulers within the territories that they
took from the Byzantine state. These schools were the first Islamic schools established in that area, and the first Ottoman schools at the same time. ¹¹ This approach focuses on the beginning and further development of the educational infrastructure, but not on its content.

Even rudimentary political conjunctures, such as the early dawlatı of the Ottoman sultans, that consisted of, and were based almost solely on the military enterprise of the bands of ghazis inspired and legitimized by the frontier ghazi ethos, which was formed and informed by the guidance of their saintly pirs¹², still, at some point, had to respond to the imperative of claiming the learning establishment as part of that conjuncture.

However, as said earlier, that claim was clearly of a formal nature, as the graduates of the early Ottoman madrasas did not have a prominent standing in Ottoman scholarly life and influence over socio-cultural developments. Thus the political change that was marked by the rise of the Ottoman frontier state qualifies the beginning of the Ottoman education only in a formal sense. Learning in general, and its professional aspect in particular was not reformed by that change.

¹¹ Sultan Orhan established a madrasa in Iznik (Nicea) in 731 H./1330 C.E., and another one in Bursa soon after. Sultan Murat II established a madrasa and Dār’ul-Hadis in Edirne in 851 H./1447 C.E. (ILMIYE, pp. 1-3). In the same period, a number of Ottoman statesmen and members of the military established madrasas, and elementary schools following the conquest of other cities and towns in the region (ILMIYE, p.2).

¹² On the Ottoman ghazi ethos and the role of saintly figures in the early Ottoman polities see: Cemal kafadar. Between the two Worlds ; Halil Inalcık,

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The principal rules governing the career patterns of madrasa teachers that are
often described as a part of a distinctively Ottoman system of promotion were in
place in Anatolia at least as early as the twelfth century. An example of such
regulation is recorded in the deed of trust (waqfiyye) of the madrasa endowed by the
Saljuk vizier Jalâleddin Karatay in 1251. The later, Ottoman regulations of the
career path of the learned can be seen both as adoption and adaptation of the
regulations in force in the Seljuk state and post-Saljuk Anatolian principalities only if
we see these regulations recorded in the state-issued documents as the legal discourse
generated by the state. However, there are several important aspects of this issue that
may clearly contradict such a view.

First, the mentioned earliest recorded regulations were not part of the laws
issued by a ruler. They were included in the texts that were legal documents of
endowment – the vakfiyyes. In the Ottoman case, not only the regulations of the
career path of the learned, but also the regulations of education were included in the
Ottoman kanûn law. However, here it must be noted that these laws did not regulate
the relationship between the state and this particular group. Instead, these were the
internal rules of conduct within the profession and within the network of educational
institutions, that were not regularly under the control of the authority of the sovereign,
or any office that would monitor or enforce their application.

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13 Osman Turan, “Selçuklu Devri Vakfiyyeleri III Celâleddin Karatay ve Vekfiyyeleri<”
Belleten. XII (45), pp. 225-236.
As explained earlier, the Ottoman kânûn law was based on the principle of granting and protecting the law, and law-giving, rather than on the principle of originating law (law-making). While it is clearly significant that regulations of the profession of the learned assumed the form of law, that law cannot be placed exclusively within Ottoman legal history or the history of the Ottoman state, but also, and even primarily within the history of the Ottoman learned profession. Then, of course, it is essential for understanding the Ottoman or Saljuk, or the history of Anatolian principalities, to recognize the significance that learning in general, and legal learning in particular, may have had in shaping a particular political conjuncture (dawlat).

Seen from the aspect of the continuous display of the rules of professional conduct in the various legal texts, the formation of the distinctively Ottoman legal guild does not stand in a historical vacuum. The early Ottoman legislation bears witness to the existence of a separate self-awareness of the branch of learning in the broader region. However, there is no indication that the Mehmed Fatih's early legal acknowledgment of the professional regulations represented an act of recognition of the association of scholars functioning within a network of schools, and shaping the legal self-awareness of the larger society of the Ottoman dominion. This is not to say that such an association did not exist. Most probably, the association of the learned existed in fragments, consisting of guilds similar to those described by Makdisi. A broader unity of these guilds is detectable through professional codes of conduct, i.e. through their professional
aspect, and of course, through the religio-juridical aspect. There are no indications that the adherence to a particular legal school (madhab) could be determined or dictated outside the guild unit. If preferences for one legal school or another were established in a particular region they were not, as a rule, the outcome of the influence of a political agenda, but rather of the influence of prominent scholars.

Before turning our attention to the specific features that brought legal learning into the focus of the imperial structure of the empire of Süleyman, it is necessary to reconsider the position of legal learning in the empire of Mehmed the Conqueror. Some of the defining differences between the two empires have already been discussed regarding the development of the kânûn law. What brings the legal learning into focus here, beside the obvious importance of the kânûns referring to the religious scholars, is the awareness of the Ottoman scholars of the sixteenth century of the lines of continuity between Mehmed II and Süleyman’s legislation regulating learning and the career path of the learned (ulema). Furthermore, the involvement of these two sultans raises the question that requires clarification before we could attempt to discuss the emerging of the distinctively Ottoman legal guild: the question of the relationship between the ulema and the dawlat.

*Legal Learning and the Dawlat*

In modern Ottoman historiography the historical dynamic of the relationship between the Ottoman *dawlat* and legal scholars/scholarship has been explained in
terms of the proverbial hesitance on the part of scholars to become involved in the judicial system of the Ottoman dawlat on one side, and the efforts of some sultans such as Mehmed the Conqueror and Süleyman the Magnificent to co-opt the learning establishment into their dawlat.

It is regularly implied if not stated explicitly, that the ulama (ilmiye) in general, and the legal experts in particular, were part of the state establishment, even state employees. Assuming such relationship between the state and the teachers and judges, the discussion focuses on different aspects of that relationship, without questioning or examining the nature of the “employment.” It is well known however, that, as in previous Islamic states in history, the salaries of the teachers were paid from the financial resources created within the institutions of pious endowments (waqfs). Also, in the Ottoman case, the majority of judges (the only exception, perhaps, being that of kadiasker) were not paid by the state. Instead their salaries came from the fees that they collected for their services. In one of the collections of petitions and kânûns attributed to Ebu’s-Su‘ûd, the following is recorded as kânûn:

“In the glorious time of Bayezid the Thunderbolt, the provincial judges became authorized to collect the fees for issuing documents, for determining the fractions of inheritance, and the registration fee. Based on this practice, this became kânûn in the year 796 H. (1393 C.E.).”

On the tension between government and the scholarly establishment in general and the Ottoman resolution of the relationship between the state and ilmiye see Fleischer, Bureaucrat and Intellectual, pp.261-272.

SK. Bagdatlı Vehbi, 569, 59b-60a.
Also, it must be noted that the judicial districts were formed on the basis of density of Muslim population, and were not identical with administrative units of the empire. Thus the sultan did not arbitrarily appoint judges for the provinces (sancaks) or districts (nâhiye) but they were appointed in accordance with the ranks of the posts, and following a defined order of promotion. The hierarchy of the judgeships as well as teaching posts was defined by the density of population and the rank of the school respectively, not by the government. All the above must be noted not in order to argue for independence of the Ottoman scholars and judges, but to clarify the distinctive features of the Ottoman judicial and educational establishment. The increased visibility of the ulema in the sixteenth-century Ottoman public sphere cannot be identified as its close involvement with, and service to the state, because the space in which the ulema appears cannot be defined as a government-controlled space.

Clearly, what we know of the circumstances of the sixteenth century Ottoman learning establishments in general, and of jurisprudence in particular, can hardly be seen as conforming to Makdisi’s adaptation of Baer’s definition of guild. First, the Ottoman legal guild obviously does not conform to Makdisi’s definition of guild as a corporate body consisting of mosque-madrasa and the circle of students and scholars gathered around it, informing and forming the religious and legal self-consciousness of a micro-society of the communal type. As I intend to argue, the Ottoman legal guild was established as a trans-communal professional organization, a network of
cells joined together by professional rules of conduct. As said earlier, the crucial event that bound together the whole system of madrasas and judgeships in the core Ottoman provinces was the establishment of the register of candidates for the available posts (mülâzemet defteri). This event, and the development of the Ottoman legal guild as a network of Sunni Hanafi scholars and lawyers, can be best understood if compared with the similar development of the network of professional guilds. The latter development cannot be precisely dated because of the lack of visibility of the trade guilds in the Ottoman archives, or perhaps the lack of scholarly interest in the subject so far. The comparison can still be made, based on some common features, not on the historicity of the two developments. The main common features that account for the development of the Ottoman legal guild can be identified in the character and function of the central offices of both. The office of kadiasker as the keeper of the register of the members is similar to that of the kethuda of the head of all guilds (Ahi Baba) in Kırşehir, and the office of şeyhülislam or ra’is ‘ul-madhab is similar to the office, or authority of the head of the guilds.

The hierarchization of both institutions of learning and judicial posts, and of the positions associated with them was not a novelty introduced in the sixteenth century. As said earlier, the ranks of madrasas and teaching posts, as well as judicial posts were roughly defined in Saljuk Anatolia. The novelty was in the establishment of the registers of candidates for the posts, and general rules for enrolling of the graduates from the madrasas of highest rank into that register.
The establishment of the mülazemet system, attributed to Ebu’s-Su’ûd, that united the educational and judicial hierarchy into one guild is often explained as induced by the state and made to enable state control of the learned hierarchy. The rules and the system as explained by Atâ’i and reflected in the register of candidates are summarized by Ipşirli. According to his summary enrollment of new candidates into the register was determined by several criteria. First, the professors (müderris) and judges in the highest posts who were entitled to grant mülazemet to invest mülazims (candidates) could do so once in seven years. Ipşirli defines this investiture as nöbet (nevbet) yoluya mülazemet or regular investiture. Exceptionally, the right to grant candidacy was recognized to prominent scholars and judges on a number of special occasions of their appointment to new posts, or on occasion of joining military campaigns. This right of investiture was the honorary one (teşrif). Also, graduates were granted candidacy when their teachers died, following the examination conducted by an appointed prominent scholar of a judge (mevtâdan mülazemet). Another occasion when the candidacy was granted was the new appointment of a teacher or a judge of high rank that involved transfer from the branch of teaching into the judicial branch, and vice versa (iâdeden mülazemet). Exceptionally the candidacy

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16 See, for example, R. Repp, *The Müfti of Istanbul*, p. 52-53.

could be granted to outstanding graduates upon submitting independent petition for that granduate (müstakil arz ile mülazament). In addition to the listed categories of candidacy and entitlements to grant them there were two categories that can be described as internships. Twice a year mülazemets could be granted to graduates to work as tezkireci and fetva emini at the offices of kadiasker and şeyhül’islam respectively.

While Atâ’i specifies that through regular investiture the kadiaskers could grant ten candidacies, the judges of bilâd-I selâsa (Istanbul, Edirne and Bursa) seven candidacies, and other judges three candidacies, the data from the register examined by Ipşirli do not support this rule.18

If we see the described system as a part of the hierarchization of the learned establishment by the state and for the purpose of state control and as a means of inclusion of the learned establishment in the state apparatus, then at least two questions need to be raised. First is the apparent lack of resistance on the part of the ilmiyye to such blatant intrusion of the state into their affairs. Second is the limited character of such intrusion. The numerous judicial posts of different ranks and the graduates of Hanbali, Shafi’i and schools of Shi’i persuasion do not appear in the register, even though the state must have had equal interest in controlling these establishments as well.

Ebu's-Su'ûd and other Ottoman scholars of the age may have shared the zeal for the (re)establishment of the balance between the universal (caliphal) sovereignty and universal community of believers in the Ottoman lands. The analysis of different universal projects offered in previous chapters demonstrates that it was the reconceptualisation of the caliphal sovereignty offered by Ebu's-Su'ûd which inaugurated legal knowledge and realization of just order in the position of priority, replacing the messianic and fundamentalist enthusiasm of the early decades of Süleyman's rule. What Ebu's-Su'ûd sought to renew was not the ideal of hilâfa rashida, but the late caliphate in which legal sovereignty belonged to the scholars. If this idea of the caliphate was shared and seen as realized by the community of scholars then the law can only be understood as the substitute persona of the sultan/caliph, and the question of resistance becomes redundant.

The second question of the limited character of the supposed state intrusion into the affairs of the learned can be answered through analysis of the identity of association that is defined here as legal guild. First, it must be noted that the educational network consisting of a number of madrasas of different rank did not feed the legal profession and learning only, through educating judges and legal scholars. It also fed the educational system itself, i.e. the schools on the Ottoman territory, including not only the madrasas of different rank, but also schools in the lower level of education (maktab), as well as all of the learned elite and ulama. Furthermore, the ranks of bureaucracy as well as military ranks could be and were filled by the
graduates of the medrese system. If the educational and judicial system (that was not
financed by the state) was incorporated into the state establishment then the rationale
behind the whole elaborate procedure of candidacy that involves the right of choice
and entitlement of both the appointors and appointees becomes unclear.

We are alerted to the rules and regulations that defined belonging to the
Ottoman Hanafi guild by the issue of the “aliens” (ecnebi < Arabic ajnabi). The issue
was raised when, in 1537, the kadiasker of Anatolia, Çivizâde banned all aliens from
applying for candidacy. This event is interpreted by modern scholars as the main
motive for the formulation of the system of mülazemet, but the question of what
defined the alienness of the aspirants to candidacy has not been addressed.19 The
term ecnebi, which is primarily a legal term, denotes an alien party, a person who
does belong to a defined relationship, contract or group. In this case ecnebis could
only be the graduates of schools associated with other legal schools, and therefore
other guilds. Upon Ebu’s-Su’úd’s intervention ecnebis were allowed to be admitted to
the candidacy. The known examples of ecnebis who were admitted into the Hanafi
legal guild of the Ottomans include Khayr al-Din al-Ramlî (d. 1757) who was initially
educated as Shafi’î,20 and two Shi’î scholars from Jabal ‘Âmil: Zayn al-Din al-‘Âmilî

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19 Ipşirli, İlmiye Teşkilâtında Mülazemet, p. 223.

al-Shahīd al-Thānī (d. 1558) and his disciple Husayn b. Abd al-Samad al-Amīlī (d. 1576).²¹

Ebu’s-Su’ūd’s intervention brings decisive clarity into the nature of the association of legal scholars and lawyers. While Çivi-zâde prioritized the particular knowledge and particular religious and educational establishment, Ebu’s-Su’ūd prioritized the ties of association and loyalty. When compared to other guild associations the criteria of membership redefined by Ebu’s-Su’ūd’s intervention resemble the practice of obtaining the membership in trade guilds by various urbanites who only satisfied the basic requirements of mastering skills of a particular craft, but hardly ever actually practiced that craft. From Süleyman himself, who was a goldsmith, through the members of janissary garrisons and various officials, and even ulema of the Ottoman cities, many such kalfas of high standing in other association filled the ranks of urban guilds.

Conclusion

The Hanafi guild of the Ottomans was formed as part of a broader effort to formulate the distinctively Ottoman legal knowledge in support of the Ottoman

aspiration to the leadership in reestablishment and renewal of universal Islam. It was also a major part of an effort to define the modalities and mechanism of the representation of the broader community.

Modern scholarly interpretation of the increased visibility of the ulama and its work (both juridical and judicial) in the Ottoman public sphere and in the Ottoman archives that have come down to us, has focused on the hierarchization of the learned establishment (educational and juridical) and seen it as the major proof of incorporation of the ulama into the state establishment. In this chapter I have tried to establish the distinctive features of the legal guild by examining their status vis-à-vis the state. The relationship between the state and the ulema cannot be established on the basis of the instruments of control, because the state did not finance the educational or judicial establishment. Also, the introduction of the central register of candidacy for judicial and teaching posts shows that the appointments were largely under control of the prominent judges and teachers rather than the sultan.

Admitting to candidacy of the graduates of schools dominated by other madhabs, as well as the fact that Ottoman medrese graduates could chose a variety of other professions that were open to them further serve the argument that the admittance to candidacy for judicial and teaching posts actually represented admittance to the membership of the Ottoman Hanafi guild.
CHAPTER SIX
EBU’S-SU‘UD AND THE POSITION OF ŞEYHÜLISLAM

The knowledge about the office and the tradition of the position of şeyhülislam developed in the seventeenth century. Modern historians adopted the chronological lists of those who occupied what is variably called the post of mufti or şeyhülislam, which were composed by biographers of the seventeenth century. The origins of the post and the historical context in which the scope of authority of these legal experts developed, and perhaps changed, are blurred by the teleological approach of Ottoman authors such as Mustakimzâde and Kâtip Çelebi.\(^1\) It is clear, however, that the knowledge that came down to us was formulated in the late sixteenth century and that the scope of the şeyhülislam’s authority was redefined by Ebu’s-Su‘ûd during his time at the post.

Ottoman biographers and historians give the year 952/1544-5 as the year of Ebu’s-Su‘ûd’s appointment to the position of şeyhülislâm.\(^2\) Ebu’s-Su‘ûd himself gives a different date, and also describes the event somewhat differently. In the record of his dream that he had while occupying the position of müderris in the Davud Paşa

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medrese in Istanbul he narrates that his future appointment to the position of şeyhülislam was predicted. Since Ebu’s-Su’ûd was appointed to the teaching post at Davud Paşa medrese in 927/1521 his appointment as şeyhülislam could be dated not earlier than 957/1550. The significance of this date is explained both by Ebu’s-Su’ûd and by the biographer el-Kefevi, who writes that on Rabî‘ II 957 (27 April 1550) Süleyman approved Ebu’s-Su’ûd’s request to be allowed to issue fetvas “according to what he deemed appropriate and in line with whichever of the approaches which occurred to him he preferred.” El-Kefevi also comments that Ebu’s-Su’ûd, in the cases for which he could not find precedent, wrote fetvas “according to his firm opinion (ra’yıhi ar-rasîn). Ebu’s-Su’ûd refers to this date as the time when, exactly thirty years after his premonitory dream he was given the emr-i fetva (emr-i fetva bize muyesser oldu).

I do not intend to question the dating of Ebu’s-Su’ûd’s appointment to the post of şeyhülislam in 1545. It is quite possible that he effectively took up the duties of the highest legal authority before 1550, especially having in mind the previous discussion about the level of independence from the state authority involved in

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3 See appendix D.


5 El-Kefevi, Katıib, f. 408a, as quoted in R. Repp, Mufti of Istanbul, p. 279.

6 Ibid., f. 403a; Repp, Mufît os Istanbul, p. 279...

7 See Appendix D.
judicial posts, and the fact that this was not exactly an official, salaried post but rather
the position of highest honor for a scholar. Here it has to be emphasized that the
“salary” given to the şeyhülislam belonged to the category of stipends or gifts given
by the ruler to various figures of intellectual prestige. The amount was not fixed or
regulated by laws issued by the sultan or bylaws of the professional association of the
ulama. More important than the date are the statements made by both Ebu’s-Su’ūd
and el-Kefevi of the acknowledged change in the scope of legal authority that
identifies the position of şeyhül’islâm as an independent mufti (mufti mustaqqill). This
is further corroborated in the description of the qualifications of şeyhülislam given in
Hürz‘ul-Mulâk, the late sixteenth-century treatise belonging to the nasihat genre:

“The locus of fatwa, the man of piety, the man of firm direction who can point
to the place and direction of the learned, who is eloquent and articulate, who
is an expert in religious and practical sciences, and who — upon being
presented an issue- can resolve it immediately, whose expertise is not limited
to one discipline but who has collected knowledge of various disciplines
and whose every utterance becomes definitive postulate among the learned,
who is superior to the erudite of his time in every respect, and who deserves to
be called the most learned among the learned. When asked about a shari’a
problem and the issues of the faith he should give an answer in the most
accurate way. For example, if someone among the statesmen and the pillars of
the felicitous state asks for a fatwa that would suit his wish to promote an
illegal cause (he could either) abandon true justice and credible opinion and
issue a fatwa based on a weak tradition merely out of respect, or he should,
wherever he is, even in the presence of the sultan, put himself into God’s
hands and speak the truth fearlessly. Indeed, it is obvious and clear as day that
the Glorious and Most Exalted God will always help and aid those who
persevere to speak the words that benefit the faith and the state in which the
illegal (corrupt) worldly affairs would not exist.”

8 Hürz‘ul-Mulâk, p. 192, ff. 44b-45a.
This description which could also be read as an enlarged and modified list of requirements for practicing *ijtihad*, emphasizes all-comprehensive erudition, eloquence, leadership and independence from the worldly authorities. Herein the şeyhülislâm (re)emerges as the legal expert who is in fact, as Juwayni suggested “the real sovereign” and the “leader and the master of the community.”

The Ottoman biographer Atâ’i sees Ebu’s-Su’ûd as the embodiment of such a lawyer. The first praise that he gives to Ebu’s-Su’ûd in his biographical account, the one that precedes praises often quoted in Ottoman historical narratives and modern scholarly works about Ebu’s-Su’ûd such as “the Müfti of humankind, the second Nu’mân (Abu Hanîfa, the sultan of the commentators of the Qur’ân,” is unique: “He is the religion and the world (Huwa’d-dîn wa’d-dunyâ).” Later in the same biographical account the versified version of the praise is offered: “The teacher of religion and the sovereign of the world (hâce-i dîn ve dâvîr-i dünyâ).” In this praise Ebu’s-Su’ûd is represented as the embodiment of all-encompassing expertise and

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9 For discussion and review of the development of the definitions of *ijtihad* and development of the lists of qualifications of mujahids in the eleventh and twelfth century see: W. B. Hallaq, “Was the Gate of Ijtihad Closed?” IJMES, vol. 16, no. 1 (1984): 5-7.


12 Ibid., p. 187.
unparalleled erudition. He is also identified with jurisprudence not only as a discipline of knowledge, but also as the crowning science that encompasses and utilizes, in its interpretative effort, all available knowledge of religion and worldly affairs. This praise also represents the statement of his independence both in terms of legal interpretation, and in terms of intellectual superiority.

The expression “dīn and dūnya” (religion and world/worldly affairs) describes the relationship the dynamics of which are continuously explained, interpreted and defined by the ulama. This legitimizes the ulama in their position as representatives of the community of believers (ummah) in the continuous process of reaching and defining the historical consensus, which in turn (re)defines Islamic orthodoxy. Thus the legitimacy of the ulama is far more broadly based than political legitimacy that guards and sustains the relationship between dīn and devlet (religion and state/political affairs).

Throughout the history of Islam, especially in the post-caliphal period, until modern times, one of the major imperatives governing various Islamic societies was the separation between state (politics) and law. In some of its aspects this imperative resembles the modern imperative of separation of state and religion. The major distinction between the two is in the understanding of the concepts of freedom and tolerance that informs the imperative, and the understanding of the representative position of the two. Within the dichotomy of state and religion in modern (western) societies the state is seen as representative of the broader society, while religion
represents particular interests, and the separation serves to limit the influence of religion. Within the dichotomy of state and religion in pre-modern Islamic society, the law, or more precisely the ulama, is seen as the representative of the broader society, and the separation serves to preserve the autonomy of the ulama and prevent the narrowing of the scope of their interpretative authority. In the Islamic context, the development of this dichotomy originated in the political fragmentation of the umma, and the introduction of a new type of political sovereignty, that of the sultan/amîr, a sovereignty limited by the proportions of the socio-political conjuncture of the dawlat.

More than by the renewal of the caliphal state, and reclaiming of the caliphal authority by the Ottoman sultan, the success of the revival of universal Islam in the sixteenth-century Ottoman Empire was measured by the complete repossession of the positive law by the ulama. As said earlier, what is often perceived as inclusion of the ulama within the state establishment, could be more precisely explained in terms of their increased visibility in the public sphere. The most visible jurist was certainly Ebu’s-Su’ûd, both in the period when he occupied the post of kaziasker of Rumelia, and in the period of his şeyhül’islamlık.

Even though Ebu’s-Su’ûd’s juridical and theological treatises, and especially his voluminous commentary on the Qur’ân had an extraordinary reception among contemporary and later Ottoman readers, none of these works surpasses the reception of his fetvas. First, there was, in his lifetime (he died in 1574), an extraordinary
interest in his juridical opinions (fetvas). Second, his fetvas continued to be intensively copied in the following centuries, both in the form of various collections, and as single or a set of fetvas addressing interrelated issues. The reception of his work can be easily documented by the number of copies that have come down to us.\textsuperscript{13}

The contemporary demand for his legal opinions was extraordinary; Atâ‘î reports that, on two occasions Ebu’s-Su‘ûd issued more than fourteen hundred fetvas in a single day.\textsuperscript{14} Indeed, Ebu’s-Su‘ûd developed the method and mechanism of issuing fetvas that involved a whole team of scribes and experts who worked at his office preparing the texts of queries that he responded to. So, he was clearly able to address a large number of queries daily. Whether Atâ‘î exaggerated the numbers is beside the point. The issue that needs to be addressed here is the motives behind the high demand for his legal opinions and the shared meaning behind the demand, i.e. that constituted the demand and supply.

What motivated people to address their queries to Ebu’s-Su‘ûd in such large number? According to H. Gerber’s research, the fetvas issued by Ebu’s-Su‘ûd bore considerable, and even decisive weight at the courts of the core regions, such as the court in Bursa. Aside from that motive, and because there are no indications that all or the majority of his fetvas were utilized in that way, it is necessary to address a broader

\textsuperscript{13} A bibliography of Ebu’s-Su‘ûd composed by Atsiz, and based only on manuscripts in the libraries of Istanbul, represents a sample of what is available in other Ottoman libraries (\textit{Ebussuud Bibliografyası}, Istanbul: Millî Egitim Basimevi, 1967.

\textsuperscript{14} Atâ‘î, \textit{Hadâ ik‘il‘ Hakâ‘ik}, p. 185.
awareness of the importance of fetvas, and the public appeal that they might have. This is especially important having in mind that the queries were not formulated according to strictly legal problems and issues, but rather by very personal issues related to people’s religious, cultural, moral and other concerns. Also, after they were composed by the *fetva emini*, these queries were shorn of their personal aspects of the queries. In Ebu’s-Su‘ûd’s time, and by his intervention, the fetva underwent a significant change. Aside from the fact that Ottoman Turkish was introduced as the principle language of fetva issuing, the fetvas issued by Ebu’s-Su‘ûd came to be composed in a highly formulaic language, stripped of all unnecessary information, personal names, place names and unnecessary narrative. Also, Ebu’s-Su‘ûd composed manuals for scribes engaged in preparing the texts of fetvas.\(^{15}\) This too is noticed by H. Gerber in his comparison of the fetvas issued by Ebu’s-Su‘ûd and those by Khayr al-Dîn al-Ramli. The former, he says, were characterized by “the thorough obliteration of all traces of identifying context,” which was not the case with the latter.\(^{16}\) While he explains the difference in the composition of fetvas geographically (i.e. Palestine versus of the central Ottoman lands), implying the difference between two legal cultures, one cannot help noticing that the Palestinian müfüti, whose fetvas he compared by those recorded in the court register of Bursa, was educated in the Shafi’i school (even though he later

\(^{15}\) See for example his instruction to the scribes in SK Esad Efendi, ff. 95b-96b.

"converted " to Hanafism). Even though he became a member of the Hanafi legal guild of the Ottomans, he was obviously not required to change his method of issuing fetvas.

The intensive demand of the people, and the readiness of Ebu’s-Su’ûd and other müftis to engage in the interpretation of worldly affairs, represent perhaps the most significant aspect of the change of self-consciousness of the Ottomans. This change demonstrates the revival of jurisprudence as a lively discipline, and the increased importance of the representative role of the jurists. It also represents the change in the role of fetva, that can be described as its full development into the means of transforming the facts of life into legal facts. This can be illustrated by an example of the understanding of the role of the shari‘a in the contemporary Morocco, described by L. Rosen. In “The case of clandestine builders” Rosen describes the problem of illegal building of residential houses by the poor of Morocco. Via a complicated set of circumstances that cannot be explained here, the clandestine builders in question are able to have their (illegal) documents registered by notaries, based on the instruction of judiciaries. No element of the described procedure (building, obtaining illegal documents, and registering them at the court) is legal. Neither is it possible to fully resolve the case. The justification given to the researcher by a prominent Moroccan judiciary for the decision to notarize and register this (illegal) activity is given in the statement: “We cannot leave them outside of the shari‘a.”17 One cannot find a better explanation for the eagerness of people to frequently address the Ottoman jurist with all

kinds of queries related to their daily affairs. The shared meaning here is the
understanding that all people and their deeds had to be included in the sharî‘a, because
what (and who) is left out of the sharî‘a is also left out of the community.

Conclusion

In his lifetime, and in the following centuries Ebu’s-Su‘ûd was recognized as
the embodiment of all-encompassing knowledge of religion and worldly affairs, the
knowledge that stands in as definition of the juridical competence. He was also seen as
a jurist of the stature of the early eponyms of Islamic law, particularly Abu Hanifa. His
work and the influence that he had on the understanding of the role of law among the
Ottomans, and understanding the role of those occupying the position of şeyhül’islam,
are expressed in the works of late sixteenth authors of works of the nasihat genre. One
such work quoted in this chapter describes the position in language similar to the late
medieval definition of the qualification for practicing ijtihad. The description is
enlarged by the view according to which a scholar of that caliber has to possess the
erudition that includes all available knowledge in all disciplines. This view also reflects
the view of jurisprudence and law as the crowning science that utilizes the knowledge
of all other sciences.

Ebu’s-Su‘ûd’s work on ifta (the issuing of fetvas) represented by numerous
anthologies that came down to us reveals two aspects of this essential activity of a
jurist. First, as the most prominent jurist of the Empire, the anthologies of his fetvas
came to represent the historical consensus of the Ottomans. Second, in his time the
issuing of fetvas issuing was fully developed into a means of transforming the facts of life into legal facts.
CHAPTER SEVEN

THE UMMA AND THE GREATER OTTOMAN HUZUR

During Süleyman’s rule the social and cultural landscape of the Ottoman Empire underwent a significant change. What was, in political vocabulary, pronounced as integration of the empire, the just order, universal piety, and repose and comfort of all subjects, became the major subject and theme of description in other discourses. One by one, these goals announced in the name of the sultan in the preamble to the kânûnnâme of Egypt became appropriated by legal, social and cultural spheres. The image of the ruler-saint of the Egyptian preamble that became the focus of messianic apperceptions soon faces the problem of diverse audiences. Its universality obviously does not function in other regions and does not fit other apperceptions. Moreover, that image transgressed the cultural and intellectual spaces that were already inhabited by their own images of “people” or “community” and “knowledge.”

The vocabulary of messianic apperceptions, combined with the administrative skills of those who projected those apperceptions into a powerful image of Süleyman, produced a strong effect on contemporary audiences. However, they could not enthrone the sultan firmly on the caliphal throne. The sultan could not become the caliph before the community over which he would preside defined itself. Only legal discourse could
play the role of cement or (in the language of the Egyptian preamble) lead that welds the structure of society, and represents it.

Jurists do not represent the community in front of the caliph. Their representation is defined by the need of reaching consensus on contemporary issues, which in turn serves as the proof of existence of the umma. Since reaching the consensus, as the defining element of the community, is a continuous process that leaves intact the diversities that do not impede the relevant principles of the consensus, the largely symbolic authority of the caliph is to preside over and protect that diversity and the consensus, as an ultimate authority.

The anthologies of fetvas as representations of the consensus of Ebu’s-Su‘ûd were made and collected post factum. Even though both the selections and individual fetvas continued to inspire and guide the public for centuries, the consensus so acknowledged was “outdated.” Also, one cannot speak of the authenticity of that acknowledgment since the anthologies reflect the preferences and indifferences of the selectors. Nevertheless, they represent an invaluable venue of inquiry into the contemporary principles of legal formulation of consensus, and the principles of selection of the issues of relevance. They also reveal the limitations of such inquiry. On the other hand, the broad reception of these collections, which is reflected in their constant and spontaneous copying and distribution all over the Empire, offers proof to the opposite view: the one of accepted legal knowledge that survived the challenges of time and continued to inform and form the community of believers.
Study of these anthologies cannot fully reveal the shared meanings that constitute the community they describe. This aspect of the consensus can only be understood through identifying and studying the social and cultural phenomena that reflect the perception of unity and diversity of the Muslim society of the time.

This chapter is divided into two parts, the first discussing the legal representation of the consensus, and the second discussing the social and cultural phenomena that signify it. The latter can be described by the unique concept of huzûr, which I see as the social and cultural equivalent, or more precisely as the social and cultural realization of consensus as perceived by contemporary and later Ottoman observers, both within and outside of the legal discourse. It also largely defines the new social contract wherein the sovereign is placed in the position of ultimate protector of the ruled.

Constituting the umma

Question: What is the religion of Islam and who belongs to its people?

Answer: It suffices for the (common) people to believe in the oneness of His Excellency the Most Exalted God, and in the prophethood of His Messenger – May God’s praises and peace be upon him – and to the justice of the noble shari’a. The detailed inquiry into their particularities and minutes of their regulations is not necessary.

Ebu’s-Su‘ûd

The fêrva of Ebu’s-Su‘ûd quoted above was most probably issued in the later part of Ebu’s-Su‘ûd’s career, when he already occupied the position of şeyhîl’îslâm.

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1 SK. Fatih 1219, f. 228a

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A large number of his juridical opinions (fetvas) addressed the issues of creed by defining what religious practices and beliefs were not, and could not be sanctioned by the divine law. The juridical interpretation and definition of a variety of creeds, legal practices, social and cultural issues, in itself meant the integration of the diverse world of the Ottoman dominions. No matter how diverse, the people and their deeds that received juridical interpretation, and were thus included into the shari‘a, became, at the same time and by the same token, included into the umma. Sooner or later, however, the question had to be raised by the “common people” (or perhaps by their representative who thought that the question was in order) about the issue of the basic creed and basic requirement for belonging to the “people of Islam.” In the midst of intensive juridical search for a variety of answers that would help transform the diverse world of self-contained communities of the post-caliphal world into the universal community that could absorb the existing diversities, this question seeks the answer that would constitute the “we” of the community of believers.

The transformation began earlier, with the beginning of Ebu’s-Su‘ûd’s interpretation, and can be followed even further back in the preamble of the kânûnname of Egypt. In Ebu’s-Su‘ûd own words, the beginning of his juridical call can be traced to the premonitory dream he had in 1520. In the account of that dream Ebu’s-Su‘ûd describes the council (divân) held by the Prophet of Islam with the scholars and the congregation of a mosque in Istanbul, in the presence of the ten

\footnote{The fetvas included in a large number of anthologies of Ebu’s-Su‘ûd fetvas were issued mostly while he was şeyhülislam.}
Companions who were given good news of paradise ('aşere-i mübeşere). In 1520, dreaming of the council held by the prophet with scholars of the recent past (Molla Jâmî), present (Kemâl Paşa-zâde) and future (Ebu's-Su'ûd) in attendance, in an overcrowded mosque, must have left a strong impact on (and/or reflected) Ebu’s-Su’ûd’s conviction about his own call, and the imperatives of the age of renewal. It is important to notice that no political authority was in attendance at this assembly of Ebu’s-Su’ûd’s dream, only the (silent) community, the vocal Molla Jami who introduces Persian as the language of communication with the prophet, and the two Ottoman legal scholars.

Already, in the post of kaziasker of Rumelia, Ebu’s-Su’ûd began the intensive labor of reconceptualizing the renewalist program. As stated earlier, he reversed the focus of renewal from introducing the sultan’s eschatological identity and reconstituting the Ottoman sovereignty as caliphal, into reconstituting the legal and communal identity of the new, universal domain.

The first phase of Ebu’s-Su’ûd’s juridical work, while in the post of kaziasker of Rumelia, can be divided into three courses of action: restoring the memory of the jurisprudence that informed Ottoman legal practices (the interpretation of the mîrî land regime); reviving the exchange between jurisprudence and legal practice (Ma‘rîzât); and reclaiming legal sovereignty for jurisprudence. The latter included constituting the community of scholars as an association of the learned gathered
around the Hanafi legal knowledge and tradition, and structured in accordance with the nature and level of expertise.

During the second phase of his work Ebu’s-Su‘úd composed most of his treatises and the voluminous Qur’ân commentary entitled *Irṣād ’ul-‘Āqli’s-Salīm ilā Mazāyā l-Qur’āni l-Karīm.*³ The timing and the topics of his treatises, and the authors on whose works he composed commentaries (ṣarḥ) and glosses (ḥāsiye) clearly represent his emphasis on the Hanafi legal and Māturīdi theological orientation. His strong preoccupation with exegesis reflects the awareness of the necessity of the renewal and reform of Islam and the importance of returning anew to its sacred texts.

In the context of the manifest interconnection between jurisprudence and real life, the anthologies of his fetwas represent an exceptionally important source. As stated earlier, they are also the representation of the consensus of the time, but one sifted through the selective mechanisms of the selectors. The selective principles reflect the practical purpose of these anthologies as guides and manuals for both legal experts and the public. First, they are organized around the fields of law and topics such as family law, criminal law, law on land and taxation, the status of non-Muslims, slaves, the judicial authority and judicial system, superstitions and entertainment,

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³ According to the bibliography compiled by Atsız, only in the libraries of Istanbul there are 200 copies of the whole commentary or the parts of it (*Ebu’ s-Su’ud Bibliografia*, pp. 6-28).
religious duties, trade, learning etc. The possible bias of these selections cannot be identified without a comparative study of different selections and individual fetvas recorded elsewhere. What can be said at this state of research is that the post-factum versions of the consensus determined by Ebu’s-Su‘ûd as the head and the representative of the juridical interpretation can clearly provide an insight into those legal and religious practices that were seen as conflicting with the prescripts of the Holy Law. Aside from such fundamental questions as the apostasy of the Qızılbash, which is discussed in detail, both in the fetvas and in the letter sent to Süleyman, Ebu’s-Su‘ûd rarely refers to particular groups or personalities. Thus, the consensus is defined more in terms of what is illicit than what is licit.

The majority of Ebu’s-Su‘ûd’s interpretations do not belong to the category of ijtihad. Among those that can be qualified as such the most prominent place belongs to the issue of the cash endowment. Aside from this, legal creativity is demonstrated in new and unique cases that do not involve any legal controversy but are nevertheless valuable because of their clear practical legal and historical aspect. One

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5 Ibid. p. 173-177; Appendix E.

6 Ibid. p. 120-121.
such case is the issue of resolving the problem of a house owner whose garden “landed” within the garden owned by another person as a result of a landslide. 7

The Socio-cultural Equivalent of the Consensus: The Greater Ottoman Huzûr

What they hold dear and call liberty is what we call equity and justice, for to rule according to liberty means to establish equity through judgments and laws, so that the ruler cannot wrong anybody, the law being the reference and the guide. 8

It is striking how a nineteenth-century Arab observer of the French Revolution identifies liberty, without hesitation, in the Islamic concept of ‘adl. The reason why the concept of justice expressed by ‘adl, in the mind of the pre-modern Muslim observer, can be easily understood as an equivalent of and synonymous with liberty is the historical experience and perception of ‘adl as political, legal and social justice, which pervades all domains of life. 9 Also, ‘adl cannot be exclusive, either as coming from one source (political authority) or as shaping its recipients into a community defined by a fixed and immutable set of laws.

7 Ebu’s-Su’ûd resolves the issue by giving the opinion that the owner of the larger garden should compensate the owner of the smaller garden (SK, Esad Efendi 587, 125a).


In the Ottoman political vocabulary as well as in common parlance, equally pervasive is the concept of *huzûr*, denoting peace, repose, tranquility and comfort. The concept of *huzûr* appears regularly both in the highly specialized languages of jurisprudence, legislation, historical narratives, and in other more vernacular narratives. Together with its Persian equivalent *āsūdegī* the term appears in the Egyptian preamble. There, it represents one of the major rhetorical elements describing the new order. Thus, for example, Selim’s victory over Qızılıbāş is described as the end of the period of darkness, and the beginning of the period of safety of security in the regions near the frontier of the regions of Islam where “rich and poor, strong and weak, all were aligned with tranquility and surrounded by happiness.”*¹⁰* Similarly, by the end of the Egyptian expedition of İbrahim Pasha “safety and security, *peace and repose* (*huzûr ve itmi’nân*) came to the dominions of Egypt.”*¹¹*

In Egypt, Süleyman could not act a conqueror, but only as liberator and protector. The preamble depicts him as ruler who brings to Egypt the just order to replace what is carefully depicted as *zulum* (oppression) and *fitne* (intrigue and anarchy) of the Mamluks, and as the sovereign who brings tranquility and comfort to its people. The former primarily concerns the administrators who were either rewarded for their loyal service to the sultan and following and applying his laws, or

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*¹⁰* “fukarâ’ ve ağniyâ’, ve zu’afâ’ ve akviyâ’ fi’l-cûme *huzûr*-ı kalble masfûf ve sürûr-I edible mahfûf olub” (See Appendix A, p. 207).

*¹¹* See Appendex A, p. 227.
were punished for succumbing to the atmosphere of disorder and corruption, and for taking part in oppression. The latter concerns primarily the people of Egypt, most notably the new subjects of the sultan who are given the good news of future prosperity and relief from the state interference in their everyday life. Tranquility and comfort do not only denote the absence of oppression and overtaxing, but also repose as result of withdrawal of state officials and removal of pressure.

Even as caliph, the sultan could not claim authority over, and the capacity to determine consensus. That authority belongs to legal scholars who determine the order of the world. What he could do is to be the ultimate protector of peaceful existence of his subjects.

The text of the Egyptian preamble does not explicitly state that the sultan is the agent of tranquility and comfort. It is clear however that tranquility descends upon the people of Egypt with the (re)introduction of his sovereignty over the region. Later, however, in many sultanic decrees (hükun) the sultan clearly assumes the role of the sovereign-protector whose primary goal and authority is to maintain the tranquility and comfort of his subjects, and to intervene, whenever necessary, to restore it. Thus for example, in 1567, in the order issued to the beylerbey of Yemen, the sultan instructs him to keep the province in good order and enable the reaya (tax-paying subjects) and beraya (urban population, exempt from taxes) to carry on their

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12 The author of the Kitâb-i Mesâlih il-Mustüm devotes the first chapter of his work to the "affairs of the great ulema, with whom is the order of the world (mesâlih-il 'ulemâ-l 'izâm ki nizâm-l âlem bunların iledir)." (Yaşar Yücel, Osmanlı Devlet Teşkilâtına Dair Kaynaklar, p. 92).
business in peace (**huzûr-ı hal ile**). Similarly, in a case involving settlement of the Arab tribe Ăl-ı Aziz near the territories belonging to the royal demesne (**havâss-ı hümâyûn**) in the province of Tikrit, and their robbery of the properties and animals of the reaya, Süleyman issued the order to the beylerbey of Baghdad requiring that he "cleanse that region from their (i.e. Al-ı Azîz) evil acts and riot, intrigue and shameless acts, so that reaya and beraya, and travelers can carry on their business and earn their living in peace and with ease (**huzûr-ı hâl ve ferâq-ı bâl ile**) in my prosperous days, and in time of my justice (**eyyâm-ı sa’âdet ve hengâm-ı ‘adâletimde**)."

The author of the **Kitâb-ı Müstetâb** uses similar vocabulary when describing the old customs of the Ottoman sultans who, when appointing new grand viziers, always issued firm warnings against oppression and infringement of rights of any one of their subjects, and asking that everybody in the time of their justice live in peace (**herkes eyyâm-ı ‘adâletimde âsûde-hal olalar**).

**Huzûr** is put forward as the imperative of sustaining the unity of the Empire, and as a direct consequence and realization of the ‘**adîl** defined by jurisprudence and

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14 6 Numarali Mühimme Defteri (972/1564-1565), Tipkibasım, Ankara: T.C. Başbakanlık Devlet Arşivleri Müdürlüğü, 1995, no. 44.

15 Yaşar Yücel, Osmanlı devlet teşkilâtına dair kaynaklar: pp. 28; 47-48.
defended through legislation. If seen only as an imperative of peace and calmness of
the broader Ottoman society, as opposed to turbulence and upheaval, the concept of
huzûr can be also understood as both substitute for equity and justice, and as an
excuse for oppression. In other words, under the pretence of protecting and guarding
huzûr the government could persecute exactly those liberties that are understood to
form huzûr. In the context of this study, however, it is important to define the
uncorrupted version of huzûr, the one that appealed to the broader society.

The imperative of huzûr did not apply only to the broader Ottoman society
(and here one must also include the world of non-Muslim communities as well), but
also, and perhaps primarily, to each and every component of it. These components
can be seen and defined as autonomous civic associations, defined by either
religious, economic, professional, or kinship ties, or various combinations of these.
While recent scholarship examining historical aspects of the public sphere, civil
society and the relationship between state and society provide a valuable insight into
the functions of these concepts in different Muslim societies, including the Ottoman,
they mostly focus on the issues of independence, financing, and the public role of
these association. In spite of the valuable critique of earlier scholarship on the issues
listed, that claimed either the complete absence of the public sphere or ubiquitous
control of the state over it,¹⁰ these studies focus on and successfully elaborate the

¹⁰ The critique of the “oriental despotism” thesis is formulated in the works of B. Turner (see,
for example his “Orientalism and the problem of civil society in Islam,” in Orientalism, Islam and
Islamists, ed. By A. Hussain, R. Holson and J Qureshi, Brattleboro, VTL Amana Books, 1984, pp. 23-
42). In the Ottoman context very few works address the issue. H. Gerber’s work, in addition to the
sources of economic and political independence of such associations. In the Ottoman context the discussion mainly focuses on the importance of pious endowments and the legal and economic independence of the Ottoman guilds.\textsuperscript{17} The discussion of law and waqf as public spheres, however, leads us away from the concept of the public sphere into discussion of its functions. The proven independence of these associations cannot be the basis of the argument for challenging the view according to which Islam lacks the capacity to provide political countervailing institutions. The associations described and studied so far seem to prove that independence from the state does not necessarily allow for either individualism or intellectual pluralism. The thesis of Gellner about the atomized social order of Islam is confirmed in these studies.\textsuperscript{18}

The definition of the components of the greater Ottoman huzūr as independent civic associations describes only their social, and, partially, political aspects. It does not refer to, or automatically allow for, intellectual and cultural dimensions. It also overlooks the nature of the communal aspect of the post-caliphal Islamic world. The self-sustained communities that dominated the societies of the larger part of the history of Islam, were not defined by their local or "clanic" character. The self-

\textsuperscript{17} Ibid. p. 68-80.

consciousness or self-perception of that communal world was not defined by being part of a larger whole, because that larger whole ceased to exist with the fall of the caliphate. Rather, a community saw itself as including, or embodying that larger whole, as a totum in parte. If the community was formed around the legal tradition and legal knowledge, then the larger whole was perceived as the whole madhab, with its genealogy, and knowledge. If the community was formed around a profession (craft or trade), then the larger whole was similarly perceived both along diachronic lines of ancestry going back to the eponyms belonging to the circle of the Prophet, or even further back to the earlier prophets, and in the synchronic aspect of belonging to the universal association of guilds with its center in Kırşehir and the sacred leadership of Ahi Baba. If the community was formed around the Sufi pirs, then its members saw themselves as heirs to the long line of sacred knowledge under the leadership of the chain of sacred leaders represented by the silsile of the Sufi brotherhoods, and as part of universal community independent from, and unlimited by, political boundaries. This was the world that was neither inherited by, nor included into, nor developed within the boundaries of the Ottoman Empire in the sixteenth century.

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The Shi‘î communities of Mt. Lebanon, the Sufi brotherhoods, trade guilds, or communities formed around and associated with other legal schools (madhabs) were not defined solely by their sectarian legal or economic orientation. They were, in fact, cultural districts, possessing all of the listed aspects. The huzûr of all these associations and groups can be identified in their cultural and intellectual production.

Various Ottoman narratives and literary works bear witness to the cultural and intellectual pluralism of the greater Ottoman huzûr as representative of the pluralism and diversity of the society so united. They are equally indicative of intellectual and cultural pluralism. Even a superficial insight into Ottoman literary genres and diverse narratives of the age of Süleyman gives an impression that no theme was forbidden and no discussion was censored. Ottoman authors engage in observations and discussion not only of legal, political, religious, and economic matters, but also explore the themes such as sexuality, customs, behavior, rumors, and dreams. In the külliyyât of a prominent literary figure one could find samples of all or a large number of themes listed above. Thus, for example Sâbit Bosnevi (Ujiçevi), the famous Ottoman poet of the seventeenth century, who also occupied high judicial posts, proudly displays in his Külliyyât examples of his poetry that include kasîdes dedicated to şeyhülislâms of his time, judges of Mecca and Medina, Ottoman high officials, religious odes, and chronograms, alongside with the Berbernâme, and Derenâmé, the two works about the
homosexual and heterosexual exploits of his contemporaries. 20 Also, the peaceful existence of many diverse groups, cultures and customs is often described in Ottoman narratives. Evliya Çelebi’s Seyahatnâme represents perhaps the best example of a narrative that is, due to its genre, largely preoccupied with such descriptions.

With the exception of the bylaws of the guilds and various spiritual genealogies of both Sufi brotherhoods and trade guilds, the literature so produced was not meant for the limited audience of the association whose intellectual production it represented. As individuals could and did become members of a number of such associations, so the literature could and did circulate across the lines of the associations. A janissary could be a member of a Sufi brotherhood, and a guild; a member of the ulema could be a Sufi, a member of the trade guild, and a state bureaucrat.

The image of Süleyman as the ultimate protector of the tranquility and comfort of all Ottomans survived the reign marked by radical experimentation to become a major element of the new political tradition of the Ottomans. Also, the imperative of the tranquility and comfort of the Ottomans facilitated the cultural imbrications that resulted in the formation of the new Ottoman cultural identity on the one hand, and in preservation of the diverse cultural and religious systems on the other.

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20 The autograph of his Kâliyyat is preserved in the Institute of Manuscripts of the People’s Academy of Science of Azerbaijan (Azərbaycan Milli Elmər Akademiyası “Məhəmməd Füzuli,” Əliyəzmalar Institu, M. 25/9924)
Conclusion

In the period following Süleyman’s rule, and conceptualization of the just order, the religious, legal, social and cultural identity and self-awareness of the Ottoman dominions is reflected in two different idioms. One is the highly formulaic language of Ebu’s-Su‘ûd’s fetvas, which rarely addresses easily recognizable historical issues and contemporary religious and legal practices. The exception is the issue of the apostasy of the Qizilbash. The numerous anthologies of Ebu’s-Su‘ûd’s fetvas were composed and copied as representations of the contemporary consensus of the imagined historical community of believers. The “we” of the contemporary umma was constituted through the selections of Ebu’s-Su‘ûd’s interpretations that were identified as defining relevant and distinctive historical issues. The consensus so represented consists of the minimal requirements of unity determined through exclusion of the practices that contradict the prescripts of the divine law, and through definition of the basic beliefs shared by the whole community. The selections largely omit a large number of issues that were either previously resolved through legislation or through silent appropriation of the diverse legal and cultural heritage of the groups and associations admitted into the community.

In the more relaxed language of other forms of legal discourse -- historical and civic narratives, as well as in more vernacular forms -- another concept emerged that was not only inclusive of the omitted groups and associations and their legal and
cultural heritage, but was actually seen as composed of them. The concept of greater Ottoman *huzûr* was perceived as the imperative of balance and equity of the broader Ottoman society that rested not only on peaceful inclusion of various civic associations, but also of their intellectual and cultural production. The composite society of the Ottomans, held together by the imperative of peaceful coexistence, was not an atomized social order consisting of autonomous social structures, independent from the state, without need for individualism and without intellectual pluralism. In the large body of works that represent civic narratives of the time, and in a variety of other narratives, Ottoman *huzûr* emerges as a concept primarily defined by intellectual and cultural pluralism.
EPILOGUE

THE ARCHIVES OF THE SÜLEYMAN’S EMPIRE

"Equity (justice) is in placing everything in its proper place"
Idris Bitlisi, Kânûnname-I Şâhînshâhî

The roots of the proverbial Ottoman (and Oriental!) obsession with recording, classifying and depositing of daily administrative operations, protocols, legal procedures, events, laws and regulations, expenditures and official correspondence can be easily traced back to the sixteenth century Ottoman legal fever, the zeal to (re)establish the universal empire and renew the dominion of Islam based on the desired and sought-for just order. Those familiar with Ottoman archives and manuscript collections know that this obsession went much further. Private letters, notebooks, scrapbooks, and records that had no obvious importance for posterity were often deposited in the libraries attached to Ottoman schools. The network of imperial archives, as well as the archives outside the imperial system of remembrance, were formed to classify and preserve the experience of guilds, Sufi orders, and families.

Almost all of the texts analyzed or referred to in this study are abundantly represented in the Ottoman archives that have come down to us. The only exception is İbrahim Pasha’s failed attempt to purify the Ottoman kânûn law. However, the
knowledge and juridical and religious views that formed the imperatives that
informed his legislative politics continued to thrive and shape the public discussion in
the Empire through the Kadızâdeliler movement.

It is conspicuous that the orderly world of Ottoman administration attracted
the attention of historians who grew up in Süleyman’s time, or immediately following
his rule. The unparalleled expansion of the Ottoman imperial archive represents
perhaps the most important phenomenon of this period. This phenomenon can be
documented by examples from any Ottoman discipline, any literary or historical
genre, and finally by all kinds of state-issued documents.

Only the latter category of this phenomenon (i.e. state-issued documents) has
been given attention in the modern scholarship. However, scholars of Ottoman
history speak of this only in terms of change in quantity. Thus the expansion of the
Ottoman archives has been explained only as the development of a large bureaucratic
apparatus, that was mainly a consequence of, and a response to the territorial
expansion of the Empire during the rule of Selim the Grim and Süleyman the
Magnificent. The significance of this change has been seen as the main factor in the
subsequent paralysis of the state’s effectiveness, and the locus of the system of
bribery in the later period.

The regularities of the Ottoman archives in general and of the archive of the
era of Süleyman the Magnificent in particular have not been the subject of research.
Instead, the archive of the era of Süleyman the Magnificent has been taken as a
representative of the state of the Ottoman world of records for the whole “classical period.” Therefore, studies of the various aspects of the history of the period so defined (i.e. from the beginning till the end of the sixteenth century) were heavily based on the archives of the sixteenth and a substantial part of the seventeenth century.

In his lifetime Süleyman largely determined the way in which he was to be remembered. His royal palace became the depository of the memory of his life and his devlet. Many of its parts however were neither created directly by his intervention nor formed to ensure the memory of the Ottoman devlet and its territories. Instead some of the new registers that were introduced during his rule and those introduced in the decades following his death can be seen as the inventories and archives of a number of comfort zones that formed the greater Ottoman huzûr. These were not the imperial archives, but rather the archives that represented the experience of various association, or cultural districts formed around the religious, economic and intellectual activities of such associations. To these belong the registers of waqfs, guilds, Sufi genealogies, and various libraries where the contemporary debates and discussion were deposedited. Membership or participation in these associations shaped the identity of almost every Ottoman in multiple ways, especially since they overlapped significantly in their membership. Thus one person frequently held the membership of various associations - a trade guild, a Sufi order, a military unit, the legal guild etc. One can often see high military/administrative officers carefully
cultivating a set of relationships within a trade guild (where they could be only an apprentice), and within a Sufi order. This was the case not only of janissaries upon their displacement into all major urban centers of the Empire but also of other military and administrative officials.

Aside from the above-mentioned archives that, in a way, represent various cultural districts of the Empire, there were large imperial archives both in the center and in the provinces, seemingly all-inclusive depositories of knowledge produced in the empire.

Süleyman’s imperial archive was not the archive of his making. It was an all encompassing written testimony of his era, i.e. the period of his rule. Also, the idea of the imperial archive was born in his time, but it actually developed and continued to develop intensively in the decades following his rule. As in the case of other developments of his time Süleyman’s own contribution is only a part of the story, albeit a very important part. Süleyman largely determined the memory of his time and also devised the ways in which it was to be preserved. He opened his palace to deposit and preserve the story of his rule. The histories and stories composed during his rule recording current events and compiling the knowledge of the past (tahrir ü tasnif); the albums of his campaigns depicting in word and image the majestic displays of his devlet as a mobile city of tents the very appearance of which induced people of the countryside and cities to bow in recognition of his manifest grandeur rather than to oppose it; the descriptions of the lands and seas both inside and outside 193
his Empire, as if the very knowledge of it all, deposited in the emperor’s treasury
signified the sultan’s sovereignty and power over the known world; all these became
the core of the memory for the future. Moreover, Süleyman took interest in
appropriating the sphere of oral memory-transmission, more precisely its most
influential genre the *šahnhâme*, by establishing the post of *şehnâmeci* in 1537.

As elaborated throughout this study, in the period of Süleyman’s rule and the
decades following it, numerous new registers were established to record the
administrative operations, governing over and protecting the lands and subjects,
regulating and applying the regulations formulated by different professional and
military bodies. While the mentioned practices and regulations were not necessarily
of contemporary making, their regular recording and storing was. While many of
these registers, such as *cizye* registers, *mühimme* registers, *şikâyet* registers were the
property of the administrative and military apparatus of the Empire, and the sultan
himself, a larger part was indeed neither deposited in the imperial quarters, nor
appropriated by the central administration or the sultan himself. A register such as the
*rûznâmče defteri* of the kaziaasker of Rumelia, also known as *mülâzemet defteri*, was
the property of the office of the kaziaasker, and in fact the property of the legal guild.
It served its own purposes, as the protocol and practical application of the regulations
agreed upon by the *ulema* regarding the requirements of membership in the class of
the learned. Similarly, establishing the registers of the large and small *waqf*ś, not only
to record current and future endowments, but also to collect, copy and deposit all
deeds of endowments known in the Empire, not only allowed the state control over the endowments by also served as a depository that could issue copies of these deed to anyone who was interested.

Ottoman legal discourse and discourse on law is dispersed through all of these official and private archives. The dispersion is not defined by genre, theme, or author. We can find as many kânûns in manuscript collections, even in mecmuas, as in the state archives that were formed on the order of the sultan to preserve such documents.\(^1\) Again, not only were current legislative documents copied and preserved from Süleyman’s time, but also the majority of documents issued before his time have come down to us in copies made either in the sixteenth or seventeenth centuries. Similarly, works of jurisprudence and fetvas are recorded and preserved in all Ottoman collections.

The dominance of legal discourse, and understanding of justice (equity) that views the just order as placing everything in its proper place had the decisive role in the formation of the Ottoman archives. In the sixteenth-century Ottoman Empire the widely known definition of justice, quoted from Bitlisî’s’s work, became reflected not only in the way the Ottomans defined and classified the experience of the associations composing the greater huzûr, the judiciary, education, and administration of the Empire, but also in the way they devised the system(s) of recording and preserving what they saw as a well ordered world.

\(^1\) See the fermân issued in 943/1536 ordering copying and depositing of the imperial orders in SK Atif Efendi 1734, f. 12/a.
APPENDIX A

PREAMBLE TO THE Kânûnînâme of Egypt
Praise be to God, the True King, who rules with justice and kindness and prohibits fornication and wrongdoing, and who made sultans the means of obtaining the good order of the world, and who made their laws effective on all tent dwellers and city-dwellers. Blessings and peace be upon the originator of sunnah, our lord Muhammad, the Chosen One, the best of humankind, and upon his family and companions that are distinguished by noble characters and blameless life¹.

It is with the praise of God – Hallowed and Exalted, Glorified and Elevated – and by His kind guidance, that from the gate of Oneness and the workshop of Divinity, in accordance with the perfection of divine power and the eternal will of God, and the abundance of kingly wisdom, He has made the royal falcon of the imperial tent of my caliphate reach the pinnacle of heaven, in accordance with: “Obey the Messenger and those among you charged with authority”² and from the abundance of His endless grace he bound my imperial commands and my prohibitions to the tongues of my well-tempered swords and to the pens of my felicitous deputies.

¹ The parts of this text, and other texts appended to this study, that are originally in Arabic are given in italic.

² Qur’ān; 4: 59.
For the purpose of arranging the affairs of the dominions and putting in order the constructions, fortifications and roads, improving the conditions of the realm and people, making binding decisions concerning the affairs of the dominion, administering the properties of the sultanate, carrying out the important affairs of the caliphate, and removing oppression and corruption, the dynasty of pure existence, and the lineage of the Ottoman family - May the Most Merciful make them victorious! – from ancient times and the passage of months until the end of time, for many generations, with might and earnestness with the authority of mollas distinguished by shari’a and sheikhs immersed in tariqah, with regard to the methods of sovereign commanders and laws of the conquering roadways, with some merits that are in conformity with the noble shari’a, in the sense of: “What is practiced through customary law is what is permitted by the shari’a.” from ancient times and for many generations have formulated statutes of justice and procedures of clemency based on ancient rules and upright regulations so that they may always refer to them, and so that whoever, noble and rich, humble and low, subject and sipahi, commits any of the crimes mentioned in the statutes may be censured by punishment and blame that are laid down as appropriate.

If one aims to spread the laws of gemlike order of laud and praise and various single regulations of (expressing) gratitude through the wide space of dominions and heaven of that Majesty sitting on the throne of the divine attributes and utmost

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knowledge of: "The Most Merciful is firmly established on the throne." \(^3\) then one
must acknowledge one's weakness and shortcomings and sip the vapor of one's
complete incapacity; citing the eloquent verses:

Bravo to that Sultan of the primordial realm

Who has no need of cavalry and retinue

Those who pay gratitude for His blessing

Become counted among the blessings themselves.

And if one intends to institute the regulations of single smiles of blessings and
peace\(^4\) and the necklaces of pearl-like honor and respect in the green meadows of the
worlds-measuring greatness and grandeur of that majesty the regulator of the rank of
God's messenger, and the divine commandments of His Excellency the Omniscient
King, and healer of the illnesses of the sick ones of the hospitals of error, and kinds of
pains of those suffering from erring of spiritual torment, and the traveler who
surpasses the lights of the seven climates of the heavens, and the rider shining as
Burak dart, swift as a flash of lightning and stars, joining various glorifications and
venerations and circling around the sacred precinct of the Ka'ba that is the object of
wishes and desires, who is referred to in: "Glory to (God) Who did take His Servant

\(^3\) Qur'ān, 16: 5.

\(^4\) Orig. "salātu wa salaam," i.e., prayers of blessing and peace upon the Prophet.
for a journey by night from the sacred Mosque "5, then observing, by actual eyesight, that the mind of saintly position is outside of the realm of possibility, and citing the words laden with logic and meaning, the eloquent text of those who raise a cry:
What a shah you are, the Causer of all secondary causes
Who made your being the source of existence of your slaves
How can people of four elements encompass Your praise
When the four Books were revealed to describe the sign of Your beauty.
it suddenly becomes known, explained, understood and proven in the view of those involved in the matters that indeed this augury of devotion is in conformity with the truth.

Mesnevi:
Yet, oh confused heart
If it occurs to you to praise the family of the Messenger
However wooden you are, pay attention to polite manners.
For the Lord of lords hints at the praise of the family of the Messenger
Everywhere in His speech.
Know that every alif and lam is describing them.
As for the attributes of the noble companions,
If you utter words about them they should be comprehensive.

1 Qur'ān, 17: 1
What a crude whim and weak idea,
To expend thoughts on what is absolutely impossible.
The Messenger of pure substance
Who is one of the shining stars said:
“The truth is this, concerning my family and companions,
Some are sun and some moon.
Beware, be neither Harici nor Rafizi
Be praiser of all my companions and family
If you wish that Ridvân give the passage to Paradise
Ask approbation from God for each one of them.
May God be well pleased with all of them!

May it be obvious and manifest to investigators of the secrets of illumination of the
sense of the inner meanings of the (hadith): “The sultan is the shadow of God on
earth, all unjustly treated seek refuge in him.” that the Sultan, who presides in the
lofty vault of the realms of creation and destruction, in His divan of the pillars of past
eternity and the locus of future eternity, across the centuries joined the currents of
commands, and the desires of the noble and ignoble to this rule (lit. discourse and
law: nesk u kânîn). Social relations and harmonious interactions and obtaining
desires of all beings and classes of God’s creatures have been continuously restricted
to it and based on it. Justice and equilibrium depend on observing it and following it; oppression and leading astray depend on opposing it.

Concerning these kânûns which must be instituted as well, those that are deduced from the self-evident Text [i.e. the Qur’ân] and the Sunnah of the lord of God’s messengers, and transmitted by reliable narrators and mujtahids, are indeed [equivalent to] the shari‘a and the foundation of the decrees of the lawgivers of just laws.

Now to pass on our subject: In accordance with the requirements of the covenant of prophethood and continuing of the [deeds of the] days of Hijrah, some men have been overcome by a variety of false pretensions and deceit, and a range of misleading acts and intrigue based on rebellion and obstinacy, fraud and disorder. In the matter of instituting the shari‘a – the source of prophetic auspiciousness – the mighty hands of commanders and kings of Islam were in pressing need and quite at a loss. Since, in some matters it was not possible to cut dispute and opposition with the sword of the tongue of saints of the shari‘a, it was perceived necessary to treat them by means of the tongue of the swords of governors of secular punishment (siyâset). Therefore, each padishah – the refuge of the religion – during his days of administering justice, has adopted a reasonable posture and acceptable mode of strengthening the implementation of commands and prohibitions, and administering legal punishments based on Qur’anic prescriptions. Always in some way, the structure of religion (din) has remained firm, welded with the lead of kânûns marked
by justice; just as it has been observed that when the rock-like mountains situated on
the upper surface of earth are convulsed by an earthquake, the upsurge of veins where
the fraction occurred is impossible and inconceivable.

In particular, the felicitous sultans, and highly proud khâqâns of the dynasty
of the house of Osman take as their personal duty to adopt the guidance of the two
Omars and follow an Ali and Hussein-like performing of their incumbent duties.
From their first appearance and rise, day by day, with the rays of the shining sun, with
well-tempered sword and raining fire, helped by the fear and power of His Majesty
the Transmuter of Conditions; and joined by the dread and awe of the miracle of the
Messenger of pure morals, the good news of the dawn of their fortune has transmuted
the darkness of infidelity and error into the glory of Islam from the region of fate, so
that the horizons of the world became complete emulations of the midday.

They are those pearls in the shell of the world
By whom the gems of laws were put in order
They conquered the regions of Rûm by their damascene swords
They turned the dawn of life of their enemies to dusk.

Inevitably, in the midst of the True Benefactor's blessings of great abundance,
and gifts of immense beauty, they took it as one of the obligations of obedience and
duties of worship, to pay gratitude and give thanks and incomparable praise,
continuously night and day. And with capital of worthy life in the market of their
teachers' consent they sometimes offered the prices of alms and sometimes accepted
the goods of remuneration and reward, and with this buying and selling they took
their share from the profit of: “... shall have ten times as much...” ⁶ By planting the
seeds of drops of blood of the enemies of religion and state in the fertile soil of the
battlefields of bravery, the threshing-floor of their wishes and ambitions became
brimful of grains of the harvest of divine love; as: “Like a grain of corn; it groweth
seven ears, and each ear hath a hundred grains.” ⁷ And passionate to bestow favor in
reviving the sunnahs of the lord of prophets, they cleansed the currents of waters of
the religious creeds from the contemptible rubbish of innovation. In their felicitous
times the meadows of realm and community, and gardens of justice and governance
were thoroughly fresh and verdant. Whoever, like the sword of crooked character
resolved upon unlawful bloodshed, by the sword-handle of their power, became to all
eternity, the abject captive bound by pains in the scabbard of the dark dungeon, and
finally perished in the corrosion of grievances of Time.

In sum – with regard to easing the conditions of mankind and satisfying the
hopes of widows and orphans; and for the purpose of doing one’s utmost best; and by
agreement of the viziers of illuminated mind; and as required in the hadith of
guidance: “My community will not agree on error,” and in order to strengthen the
righteous shari’a to confirm the straight path – they laid down a desirable just method
and a just imperial kânûn. And with regard to silencing “those who are the most

⁶ “He that doeth good shall have ten times as much.” (Qur’ân 6:160).

⁷ “The parable of those who spend their wealth in the way of Allah is that of grain of corn: it
groweth seven ears, and each ear hath a hundred grains.” (Qur’ân: 2:261).
contentious enemies" this noble kânûn supports the flourishing sharî'a and is accepted by the whole world. In all decrees, in the position of a loyal friend, favorite and servant, it helps and aids, assists and supports the pure sharî'a that is the foundation of the revolution of night and day. This auspicious and felicitous son of khans, the envied of all kings and qayls, who, in some manner, became embellished and adorned, and attained grandeur and majesty by these two (sharî'a and kânûn).
Thus each of them became the fifth one after the Four Righteous Caliphs, and the eleventh one after the ten Companions who were given good news of paradise.

To such a degree that, His majesty marked by God's mercy and cloaked with God's forgiveness, the justice of the time, whose place is in heaven, the deceased and innocent sultan Selim Khan – May God give him a resting place in one of the gardens of Paradise! high-flying falcon of his ambition spread its wings to seize the imperial Phoenix of the sultanic state, and with its mighty hunting talon at once seized the prey of its desire. When, with his felicity-favored and prosperity-enabling fortune, his heaven-matching throne was adorned with his agreeable ascendance, he made it his intention and resolve that the kânûns that had been instituted in the progression of the years, be organized and arranged. After cleansing his inherited dominion from the dung of oppression and tyranny with the broom of justice and

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8 According to A. Akgündüz this phrase refers to Qur'an 2:204 (Akgündüz, Osmanlı Kânûnnameleri, vol. 5, p. 899): "There is the type of man whose speech about this world's life may dazzle thee, and he calls Allah to witness about what is in his heart, yet he is the most contentious of enemies."

9 Title of the ancient kings of Himyarites.
equity, with the whiskers of his fire-spewing swords, he erased from the surface of
the material universe the erring down on the bodies of the followers of innovations
and vanity who had overwhelmed the Islamic countries on all sides. By furling up the
scrolls of error through the import of battles and by unfurling the mandates signed
with the imperial tugra of: "The religion before Allah is Islam," he made every
region resemble Paradise, a place of comfort for the weak and the poor.

But the throbbing vein of zeal allowed no scope for patience and quie, and the
boiling cauldron of ardor was cooking a variety of plans. Of necessity, rather than
paying attention to urgent matters of the country, he considered it more important to
make forays and to subdue the enemies of the realm and the community, and more
necessary to disperse the obstinate foe and take revenge. When, regarding this matter,
the voice of the Invisible Speaker reached his lofty ears saying "You took the right
course, so persevere on it!" immediately, with the army large as the sea and showered
with victory he, several times, without stopping, blew the whirlwind of destruction
and wrath toward east and south. With joy of royal victory, most of the lands of Iran
and the Arab regions became stations of men [i.e. Ottoman garrisons], with happiness
and joy they became enumerated among the annexes to the Protected Regions and the
turbans of the ceremonies of his evident kindness were firmly wrapped around the
heads of men. While the people of the market place were burning in the fires of
sedition of the blood-spattering Qizilbash, their heads enveloped in smoke and their

10 Qur'ān, 3:19.
hearts branded by their torches red as tulips, with the rising of the victorious banners with the sultanic insignia, and the dawn of auspiciousness and the diffusion of the lights of the stars of God-favored victory the sun rose over their heads and the flame of the torches of anarchy was extinguished; the leaf of the long-lasting period of war was turned over; the screens of safety and security and the stronghold of lofty structure of repose were drawn around the places near the frontier of the regions of Islam. Rich and poor, strong and weak, all were aligned with tranquility and surrounded by happiness.

The cities and provinces of the Arabs had been lands of God’s abundant satisfaction, the place upon which the beams of light of His special favor fell; but the cruelties of the tyranny and hate of the Circassian tribe, abundant with devils’ cloaks in taylasâns\(^\text{11}\) of evil, made that source of the spring of faith dark and gloomy with the filth of turbidity. The subjects of the Sanctuary of the dominion were stripped of the clothes of well-being. The threshing floor of their sustenance did not contain as much as a sesame-seed of repose. The firewood of the substance of every peasant forsaken of prosperity became the black finger burned by the flame of tyranny, and the smoke of their sighs at all times darkened the sky. The pleasant life of the city dwellers turned into disorder caused by the sharp pain of excessive sorrow. They suffered and they thirsted for the poison of the appointed time of death. As for the mentioned tyrants, since they saw the dear subjects as captives bound by submission they look at

\(^{11}\) Hanging end of a turban, mark of religiosity.
themselves in the mirrors of pride of self-regard. Continuously, they became intoxicated with the wine of arrogance and conceit in the cup of pride and presumptuousness. They became proud of the demonstration and display of the unclean designs consisting of appearances that are but a few throws of a backgammon player, the two dice of night and day, and a turn of a the wheel of fortune.

While pleas for help had gone out to all sides of the world, the king of beautiful face and auspicious, with correcting and without erasing, as soon as he confronted the dark cloud-resembling black army on the board of the battleground and on the carpet of battlefield resembling the lines of chessboard, he galloped the horses, and sent the eminent infantry (=pawns) against it. With one blow he checked the quivering sultan (=king) in the pat position, and erased him from the board. After courageous performance of the clever move that brought victory, they stoned to death the cavalry of the followers of error who resembled the “People of the Elephant” in accordance with: “Striking them with stones of baked clay.”

He won entirely and completely the immovable and movable properties that were the stake in this strange gambling. In the play of men and heroes wherein the followers of the erring sect imagined themselves as actors, he played such a game that he annihilated them as if they were children’s toys. In short, he played swift and fair by the rule aimed at breaking. While his effort of lofty intention in taking over and regulating the affairs

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12 (Qur’an 105:4) This is the reference to the miraculous victory of Muslims over the Abyssinian governor of Yemen who led an expedition against Mecca around year 570. Muslims attacked them by stones thrown by flocks of birds. The army of Yemenites who rode elephants was almost completely destroyed.
of both the inherited and the acquired dominions was at the highest point, this was not wouchsafed for him, but rather the chain of his precious life was broken by the turmoil of daily events, and he exchanged the narrow sovereignty of the transitory abode of this world for the wide dominion and open space of the enduring orbit of next world. "To Allah we belong and to him is our return." \(^{13}\)

Indeed, that sun of auspiciousness disappeared at the point of sunset on the horizon of auspiciousness. As he disappeared from sight, the darkness of the times of calamity and mourning darkened the brightness of the world in the eyes of all humankind, and earth became as a large turning wheel of fortune surrounded by the stars of the planets, like the drops of perfume. Suddenly the rejoicing daybreak occurred to the senses of outer and inner perception of these wanderers in the desert of anxiety and grief; and good news of the morning of good fortune and signs of the afternoon of the grief of dignitaries and noble servants in majestic attendance at the elevated, heaven-resembling royal threshold.

As it is suggested by [the lines of the content loaded with joy]:

The voice of the sacred nightingale arrived: O unwary,  
Though a rose approached the autumn of its death  
The breeze of spring of eternal grace blew and  
In the garden of the caliphate a colorful rose blossomed  
Such a rose, with its color the face of victory is rosy  
And with its odor the brain of time is musky.

\(^{13}\) Qur'ân 2:156.
With the news informing about the heir, happy feelings of joy and peace were built in the hearts of those in grief. While the eyes of the notables were expecting, waiting for, and patiently watching for the arrival of his excellency, the emperor of the time, it became recognized and admitted by all groups of the community of believers and all people of good will that he was the charger of the news of departure, the sovereign destined for paradise, his excellency the felicitous sultan of the celestial throne that is the threshold of the universe and the abode of the lotus tree of the seventh heaven, the Sun in opposition to the Sun in Pisces, the Moon of youthfulness and possessor of the victorious signs, Jupiter the vizier, Mercury of the right course, Saturn – the guardian of the Universe, Mars in fatality, Adam the pure in sincerity, Noah the saved of noble deeds, Enoch in learning, Jonah in refinement, Halil\textsuperscript{14} in friendship of God, Ishmael in submission to God, Moses in eloquence, Jacob in pleasing God, Jospeh in Preciousness, David in caliphate, Solomon in authority, the Anointed One\textsuperscript{15} in blessings, Elias in friendliness, Hidr in saintly power, Ahmad (Muhammad) in honor, Siddik (Abu Bakr) in devotion, Fârûq (Omar) in justice, Uthman in forbearance, Ali in knowledge, possessing the praiseworthy moral qualities and admirable character of the prophets of the past – God's praises be upon them! – and the ancient saints – May the Lord of the worlds be well pleased with them!

\textit{Ku 'a}:

\textsuperscript{14} I.e. Abraham

\textsuperscript{15} I.e. Jesus.
While he is not a prophet, to that distinguished creature
The Creator gave all moral qualities of the prophets
All saints recognized his saintly power
If that shah is called “holy”, that suits the notion of holiness.

Especially necessary and important are the attributes of the earlier kings who were adornment of the rank of world-rulers and personification of the imperial position such as subjects-nourishing endeavors and justice-spreading affairs. The rays of light that are marks (of holiness) were manifest and visible, evident and clear like lights in his noble character, on his face that resembles the shining sun.
World conquering and world-bestowing emperor
With felicity as his servant and fortune as his slave
Upon his head is the crown pearl.
Independent of others while they are in need of him.

When he understood the call of the angelic herald, those lights of the eyes of the emperors continuously made the world drowned in the sea of tears with the rain of the tears of longing and the flood of bitter tears of blood of suffering and pain of separation (pouring) from the clouds of the seeing pupils. The gray shawl and the dark turban of the robe of pain colored the cloak of the sun-like stature and settled in him. After fulfilling the conditions of mourning, completing prayers and salutations-spreading perfume-like pious acts, reciting the verses of the speech of the Living and

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Awake, and distributing the blessings and alms which are the shares of the divisions of humankind, I the vizier filled with penetrating mind and advisor with affection marked with loyalty, voiced my advice and constructed (the following) admonition:

Nazm:

O shah of the prosperous throne
Whose youth revives the wheel of life of a decrepit old man
Heaven is your throne; the angel is commander of your troops.
Young and old hang on you like children.
Though the leaves of the branch of fortune have been dispersed,
The fruits in the garden of auspiciousness are at your service.
The treasure of Heaven has become your treasure.
The nine thrones of Heaven have become your abode.
Today you are the pride of the predecessor shahs.
You are the best among the successors to the authority of caliph.
Give up mourning,
Forget sorrow and mention his soul in prayer.
Make happiness always reach the people,
So that souls may be happy from you.
The royal throne stands on its feet.
O divine grace, march forth.
Risk your life for that imperial crown
March forth for the sake of your blessed head. That fits that well on your blessed head Command! Your army stands prepared.

All, like stars, have their eye on you, the moon.

When his excellency, the king of the world listened with approval to this advice coming from the heart and agreeable and well placed admonition, and encircled and contained the groups that are the folds of the state, immediately, like the night guardian-Moon, he mounted the black horse of the luminous path. His resolve, accompanied by his intelligence was upon Istanbul the capital. When, by the swiftest raids and strokes, in a short period, he made the seat of the Caliphate envied of the Ethereal Sphere, as the soldiers - the flowers and sweet basils - came to meet the sultan of the royal throne, which is the paradise-adorning bright flower, so all the servants and notables came to welcome the king of the heavenly splendor. They surrounded that moon of the celestial glory like a halo. He took up residence in the hearts of the troops like the sacred spirit which rules the regions of the body. As soon as he performed the ascending and accession in the most auspicious time and most propitious hour, with the help of His Excellence the Most Holy, immediately, without delay and postponement, he summoned the pillars of the imperial state and notables of the eternal sultanate. In accordance with the command of the Expander of the breast: 10 "and consult them in affairs (of moment)" 117 first, in the matters of the

16 Qur'ân, 94:1.
execution of the felicitous orders, and consideration for the weak and poor ones, which is the greatest imperial affair and most important matter of expressing gratitude and thanksgiving (to God), and in the matters of taking measures to destroy the enemies, and ways to ease the situation with the deadly enemies who are the arms of intrigue, while conducting the consultation and interview about the choice and test of the attacking strategy he saw that each one of them was perplexed regarding the provisions and repairing. Surely, he found the remedy for the sickly humor of the dominion and treatment for the natural disposition. All of the kânûn and interpretation of the (past) centuries of the dominion were narrated in summarized way. The reform of the state of the world, whether by severing the vein of corruption, or cauterizing the blood of oppressors and tyrants, should be entrusted to the physician whose opinion is adorned with wisdom, who is appropriate and approved, and accepted by consensus, a wise man of reasonable opinion, confidante of the secrets of the sultanate and ointment for those struck by wounds of cruelty and torment, the effective vizier who is not subject to ill humor coming from the diseases of anger, who is absolved from the viciousness of bewildered humor and obscenity by fermenting the nourishment that opposes bribery, nourished by the potion of upbringing with special virtues of the padishah, and a sprout in the garden of virtues grown on the benefaction of the spring of life of the imperial favor, who is adorned with perfect flowers of intellect and distinguished by lights of high perception, with

17 Qur’ân, 3:159.
religious and worldly fruits, and beautiful dates of Muhammedan paths of law, his lofty palm is equal to the Lotus tree in the Seventh Heaven in (reaching) summit of glory and exaltation. There should be for him a most humble slave with the stature of tall and graceful cypress, fresh and unspoiled, with loyalty like luminous dawn, who would be the locus of the world-adorning sun of: "Him we chose and rendered pure in this world."\(^{18}\), to which he reply would be "We believe and put our trust (in him)". A gentleman of perfect manners, a mind of shining intelligence he saw the world of manners in the world of youthfulness. Like a child who studies alphabet he became the one who recites the letter of approval. If the quantity of weight of his forbearance and dignity is of the exact weight of the balance between night and day, and if it amounts to the weight of a thousand months and years of Jibâli râtls,\(^{19}\) the bar of the balance of Equator and the world-measuring balance would not suffice and have capacity to measure it. It is considered impossible and inconceivable. And if his meticulous mind considers battle and battlefield, the multitude of the righteous armies of his thoughts will show to the intrigue-supporting malevolent troops that this world that is the field of termination is narrow. And if the peacock of exertion circulates on the ground of courage, the bird of the soul of the inauspicious character of the evil-destined enemy will fly into the air of annihilation from the abode of the wounded body. If Rustam enters the battle with cruel intention, with the power of his upper

\(^{18}\) Qur’ân, 2:130 (this verse refers to Abraham).

\(^{19}\) Râtl = measure of weight (Egyptian râtl approximately 1 pound).
arm, the arrow of his stature will break the back of the strength of the violent enemy, upper arm of his power, the arrow of his stature, with the bow of the raw character, and the foot of the guests in the city of non-being, and the power of the knee of courage will break the back of the strength of the violent enemy, and throw them into the desert of suffering and pain.

In short, it is an impossible thing, outside the realm of speech, and inside the border impossibility, for those describing Fate until the extinction of time to enumerate and count the outstanding qualities of that crown of excellencies and torch of prideful deeds. Therefore, the Teacher of “He taught Adam the names”\textsuperscript{20} inspired him to give the name Ibrahim to that destroyer of the idols of infidelity and sins, whose fate is auspicious. Whenever the obstinacies of the stubborn conspired to burn him in the fire of jealousy and spite with the catapult of hypocrisy, in the shadow of the dominions of the ancient possession, embellished by endurance, it was observed how, with the breeze of: “O Fire! Be thou cool, and (a means of) safety for Abraham!”\textsuperscript{21} the commander-burning ember became a rosebud of the red rose, and every burning fuel turned into a delicate figure of the tender rosebush, and every blue smoke became a herald of green plants and green leaves.

\textsuperscript{20} Qur’an, 2:31 (And he taught Adam the names of all things.)

\textsuperscript{21} Qur’an, 21:69
In accordance with: "But the plotting of Evil will hem only the authors thereof." in the market of intrigue and hypocrisy they became subject to the evident frustration of: "But we made them the ones that lost most!" "Praise be to Allah who hath guided us to this (felicity)."

Bravo to the new fruit in the garden of youth
The colorful rose in the rose garden of protection
The branchy tree in the orchard of auspiciousness
The fresh spring in this ancient garden

When, with sincere servitude, day by day, he obtained the exclusive devotion of closeness, his excellency the caliph of the Glorious Lord granted the exalted position of the friendship like the one of Halil. He, for his part, acquired the badge of splendor of sincerity and service at the threshold of heavenly rank, like the sun and the moon in day and night. During the nights of oppressors his shining candle was fixed and firm. He was the moth in services at the session of intimacy. With a mind of the storage of the secrets of the sultanate and with his eloquent tongue, which is the key for the secret coffers and the most confidential affairs of the state, he opened the

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22 Qur’an, 35:43.
23 Qur’an, 21:70
24 Qur’an, 7:43.
25 Abraham.
door of the treasury, and no one, stranger or acquaintance, was allowed to gain access to information about the precious pearls contained in the secret casket.

His excellency, the refuge of the world saw the shining rays of fortune shine on the forehead of capability of that person of abundant being, and sparkling sobriety and radiating pearl on the face of his capacity. In utmost privacy he honored him with the chemistry of courtesy. His sound opinion and clear mind was consumed with both unlocking the problems of the dominion, and breaking of the leaders who were enemies of the state and people. He spent most of the hours of his precious life discussing the sciences of the vizierate and conversing on the subjects of justice, devoted to the right causes. In consent with thoughtful management and accompanied with destiny-influencing opinion, with the help of the One who satisfies the wants of all, the various great victories and a range of grand gazavat became the daily ration. When breezes of victorious conquests every moment wafted upon the gardens of the sultanate, he became seen as the envied one of Paradise and the Eighth Heaven.

Mesnevi:

Reason says, o shah of pure character

May the throne of equity be adorned, justice has triumphed.

While such a pillar of the state stands upright

It is a sin to give the vizierate to anybody but him.

Is it reasonable that, while that pure rose exists
The rose garden of justice be filled with thorns and sticks?
You are Solomon; it suits you to have Asaf;
At your gate men and jinn stand in ranks.
While in his hand both pen and sword are obedient
It is unjust for others to be grand viziers.
While every commander is obedient to his command
The position of the high commander (beylerbey) going to others would be unjust.
No king had come to rule like your
Nor has this court seen a slave like him.
When this sweet talk, mingled with sugar, was poured to the taste and grace of the kindness of his excellency, the mighty sovereign, immediately, without delay, joined the rank of grand vizier and military commander to the previous felicitous favors to that companion of friendly gatherings. On a majestic and felicitous occasion the honorable promotion was conducted from the rank at the court decorated with joy to the heavenly position. He undertook lifting of oppression and followed with the transition to the daily issues. Now, he improved the conditions of the amîrs and mamlûks, and now he bettered the conditions of the poor and weak. The expert physician knew the simple wisdom of attending to those suffering from the disease of destitution by applying appropriate measures. Somehow, it was facilitated for the boiling sea of his kind heart to complete small and big tasks in a short time. The rest of his noble time he spent in honey-sweet conversation with the noble and illustrious
emperor. By spending a lot of strength and power in a little time a number of weak among the subjects found support. While the regulations of the laws of the sultans of Rûm had been erased from the page of time, they were recorded again with the ink of his assistance.

Ever since the vast land of Egypt was delivered, by the horsemen who assisted in victorious accomplishment, from the government of the Circassians, ignorant as the government of pharaohs, repeatedly, with the high decree of the sultan’s royal cipher, he dispatched many illustrious viziers and firm commanders – with banners of glory across the great river Nile to the Arab land for the guarding and protection of these regions. To be sure, they made manifest their sound opinions and penetrating commands, they did not for a minute miss the opportunity to communicate the royal decrees and execute the orders of the king of kings with good sagacity and perfect intellect; and to the utmost of their power they made all public affairs reach perfect conclusion and complete grace.

However, as they returned home without putting together and ascertaining the appropriate conditions and desirable order that would create the necessity of perseverance and orderliness appropriate for that region, rich and poor in residence and settled both in Cairo and in surrounding exterior districts had not ceased to be captives of evil trials and oppression by the soldiers of anarchy and distress. For that reason, when he understood that the sea-resembling intellect of his excellency the glorious padishah was clouded with the dust of anxiety and annoyance, his excellency
the great pasha of heavenly endeavor, angelic character, the rising sun of fortune and prosperity, the full moon of the stations of eminence and honor, who perfects the affairs of humankind, who repairs the conditions of the noble and ignoble, who improves the affairs of states, who puts in order the affairs of religious community and sects, knowledgeable of small and big matters, discoverer of the devices to measure those who are prodigal and those are sparing, protector of the people of Islam, annihilator of the oppressors of mankind, efficient manager of the glorious and magnificent dominions, destroyer of those traveling on the path of blasphemy and error, Asaf in purity, Plato in wisdom, Aristotle in expertise, Galen in faithfulness – May God, the Supreme King enlighten his heart with the lamps of perfection! - made the elixir of his footstep the dust in the courtyard of the caliphate, the abode of hope. In order to ease the storms of disorder and exhaustion he began his speech of good completion in a moving tone and said:

“O deepest shadow of God! May the sun of your might and position always rise from the point of the sunrise of divine help, and shine from the east of divine assistance! You are a padishah of the seven regions, by whose bright star of justice the six directions are illuminated. You are a king of sun-like movement and Jamshid-like character whose rays of grace and kindness spread light over the four elements. In the clear mirror of perception of this slave an idea was reflected: that, by the glory of the decree powerful as destiny of you who seize dominions, and with the help of God’s grace, and if divine assistance and imperial influence are forthcoming, the true
nature of the situation in those regions will become evident in the glory of the imperial petition.

Earlier, repeatedly the affairs of great and small in that region were given over to the signature of the grand vizier. The gains and loses that occurred in that campaign became the provenue of the threshold, the abode of majesty. While this lowest servant was a dew drop in the garden of humility, it became clear and manifest as sun in midday in the eyes of the men of discernment that his becoming the climber on the ladder toward the summit of greatness depended on the ray of the sun of the sky of greatness. Those who seize this kind of kindness from the tables of God’s blessings without being capable of gratitude are as those referred to in: “They are like cattle.”

Now if these seas boiling with concern for kindness raise waves toward the shore of servitude this being who is a drop and a mote of little worth, traveling from the sea of cordiality, with support of the wind of his excellency the sultan, he will go in the direction of the pure Arabs. In a short period of time and swift as a breath of air, after collecting full information about evident and secret matters, and arranging and completing all affairs the phoenix of royal ambition will return with fortune to this sublime threshold.”

When the padishah, the refuge of the world, heard this speech laden with gratitude, after some deliberation and reflection, hesitance and contemplation, since

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10 Qur’an, 7:179.
Indeed, the accomplishment of this important affair was desired and hoped for, from
the illustrious royal mind, after choosing to spend some days in the bitterness of
isolation and abandoning the sweetness of company, the favor of imperial permission
became the companion and the pledge of hopes of that one distinguished by the
authority to command and prohibit. The dexterous and consonant, and those with
knowledge of the procedures of conduct among the successful deputies were joined as
his retinueput to work to be of help and support in this important enterprise.

Instantly, that auspicious star set out on the open sea with ships resembling
destiny, speaking and sailing in accordance with: “In the name of Allah whether it
move or be at rest.”27 When the stations of winter-cold and instants of frost came
near, they, like all eight winds,28 collided, and conflicted with each other in order to
offer their service and present their respect to his excellency, the vizier of firm course,
so the crossing of the sea was not possible. However, seeing the matters and obstacles
at the sea that concerned the (well-being) of the divinely protected dominions, that
had to be seen, they took appropriate measures. Then some weak subjects from the
shore became upset by the governors of the affairs of (worldly) wisdom. In order for
them not to be left without their share of the basic tenets of the perfect justice of his

27 Qur’an, 11:41 (Here the reference was made to the Noah’s journey with the excerpt from
the verse: “Embark on the Ark in the name of Allah whether it move or rest.”).

28 I.e. the main eight winds as represented in the wind rose also mark the eight sides of the
world (tramontana/yıldız (N), greco/poyraz (NE), levante/gün doğusu (E), siroko/keşişleme (SE),
ostro/kible (S), libeccio/loidos (SW), ponente/ gün batısı (W), and maestro/karayel (NW).
excellency the grand vizier, the stream of grace of the sweet sea of kindness, and the sugary river of virtues flowed to the shore. The delicious drink of kindness became the sweet water of Selsebil for the fields of mercy and hope belonging to the poor who suffered the year of draught and famine, oppression and destruction. The graceful gardener cleansed the paradise-resembling rose garden of the dominion from the rebellious oppressors of the province.

For many days they traveled, from station to station. For the sake of the padishah and in his interest they went through severe trouble that brought blessing. Finally, at the auspicious hour the frontier of the region of Egypt became the encampment of the glorious and victorious army. Earlier, with the arrival of the joyful news about the majestic approaching, tribes of friends and well-wishers lay in waiting. The corridor of (those) in perfect expectation and the division of the wicked ones burning in fire were imposed. Those who, on the paths of error and sources of treachery became friends and companions of disobedience, in accordance with the definitive Text: “Allah will never guide the snare of the false ones.”

became frightened, and trembled of becoming captives of the bond of the great misfortune of the “prison or a grievous chastisement.” And those who remained firm on the road of faithfulness and persevering on the highway of rectitude became firmly established in the place of permanence. (In accordance with) the words of manifest beauty” Thus

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20 Qur’ān, 12:52.

30 Qur’ān, 12:25.
do We reward those who do good.”31 they asked for the reward of grace and kindness.

However, in any case, with the thought that the happy meeting will be the sign of good fortune and prosperity for the unfortunate and prosperous, the troops in victorious procession on horses, and Arab sheikhs in order of rank came to meet him. With demonstration of the (maneuvers) of retreat and attack of incomparable beauty he made the Arab people recite the Qur’anic verse about the excellent pattern of creation: “This is none other but a noble angel.”32 The superior voice arrived from the edges of the highest of the eight heavens to the ears of the retinue of his excellency, the pasha of the just conduct: “Enter ye Egypt (all) in safety if it please Allah.”33

The houses of Egypt became the mansions upon which the divine power descends, and the fortress of Jabal became the residence of that light among the people of esteem, the abode of joy and the orbit of comfort – the envy of the Fort of the revolving dome – and the veritable castle of Paradise.

In this period, when previous deputies representing his greatness (the sultan) descended upon Egypt from the imperial threshold like a calamity descending from heaven, at first they thought that their greedy eyes were wide open, and their

31 Qur’ân, 6:84.
32 Qur’ân, 12:31 (This Qur’anic verse refers to the beauty of Joseph).
33 Qur’ân, 12:99.
gluttonous look was the ultimate deed, final thought, and spiritual capital. Just as they earlier satisfied their greed because they were offered gifts as an honorarium for inauguration, when some astonishingly shameless ones become the holders of the positions of administering justice by asking acceptance and consent from the most hollow rank of the noble servants of his excellency the incorrupt Pasha, and when, with poems veiling [the self] that commands [evil], they presented themselves as the earring on the ear of honor, that provides information and hints, they appeared as wonders of time to his lesson-seeing eyes and sagacious mind. His sound character and commanding taste refused this as the lion – hunter of the world – despises the filthy carcass. Those who took part in this practice he expelled with most terrible expulsion and rejected with most hideous rejection.

Immediately, as the hall of audience was made the place of eternal fortune, first, the obedient and the rebellious, in the nearest and farthest provinces, were ordered investigated. For those who like compass points traced the circumference of obedience he became the pole of the circle of glory. Those not wearing the garments of duplicity were retired with the highest robes of honor with splendid ceremonies. And those who were the leaders of intrigue and fraud were drowned in the underwater current of the sea of torture.

The cattle breeder who was (like) a careless ox grazing on the summer pastures of blessing became wretched in offspring and body. The evil omen of misfortune deprived the auspiciousness of the compliance of Aaron from the rightly
guiding intellect. The sect of deceit and infidelity displayed the sorcery of the Samiris.\textsuperscript{34} The settled urbanite was not content with the glories of the good fortune of the province of Sa‘îd\textsuperscript{35} that he had not seen in his life. Because passionate ambition and desire for independence corrupted the government of his mind and relied on the strength of the fortress of his corruption, he became the prisoner of the Divinely Protected Egypt of lofty structure and, with a large number of musketeers at his side, became the target of the arrow of blame. With cauldrons of saltpeter he poured water over the hearth of the ill-natured one. Blows from cannons and falconets destroyed the walls of the fortress of his life down to its foundation. The yarn of their life was spent and, with the rope of capital punishment they became commanders of the underground. Cases similar to theirs were described as shameful deeds and disgraceful acts. The tree of the evil-doers of cursed being was cut down and uprooted. The Arabs of the desert, who were like the sand-stormed deserts of evil and corruption, were roaming in anxiety like the poisoned desert wind, unable to enjoy the exquisite gardens of the land.

In short, in the matter of improvement of the world of being and dissolution, and prosperity of the peasants and all servants of God, his lofty ambition was accompanied with pure intention. Safety and security, peace and repose came to the dominions of Egypt in such way that the traces of evil pharaonic custom, and

\textsuperscript{34} Qur'ân, 20:85-95.

\textsuperscript{35} l. e. Upper Egypt.
practices of corrupt innovation of the tyrants were completely annihilated with the happy secret of: “For those things that are good remove those that are evil.”\textsuperscript{36} The moans of complaint of the people of the region were replaced by the happy cries of joy and celebration. The people who were victims of the swords of cruelty began to enjoy being nurtured by respectful treatment of the pasture of kindness and generosity of that morning sun of courtesy in the meadows of justice and comfort.

The province of Şarkiyе\textsuperscript{37} became the place of shining sunrise, and province of Garbiyе\textsuperscript{38} became the place where the lights of grace and generosity set. The province of Buhayra became the place favored by the winds of generosity, and Saʿīd became the place upon which the rains of kindness pour. The people of Vechūʾl-kible\textsuperscript{39} performed prayer in gratitude and veneration for all perfect gifts of that cynosure of the fortunate people with faces of deprecation and supplication in the dust of pious reverence and humility, to His Excellency the Generous One and Perpetual Gift-giver. And the people of Vechūʾl-bahr\textsuperscript{40} were submerged in the sea of blessings and material goods. In short, the subjects in the Egyptian dominions.

\textsuperscript{36} Qurʾān, 11:114.

\textsuperscript{37} The Eastern province.

\textsuperscript{38} The Western province.

\textsuperscript{39} Lit. “the direction of prayer”.

\textsuperscript{40} Lit. “the direction of the sea”.

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enjoyed a degree of care and peace that has not occurred and will not reoccur, from the beginning of the Islamic Empire until the end of the chain of days.

When his excellency the pasha had implemented his command to pour out good and evil over the good and bad groups he turned his lofty attention, toward the manner of collecting silver and gold which is the cause of unity of the victorious army. It became obvious to his problem-solving mind that the fixed sum that was extracted from the country in the name of land tax\textsuperscript{41} by compliance from the beginning of the creation of the world until the end of the Circassian rule that set the world into commotion, had become removed from the circle of justice. Immediately, in accordance with zealous incentive and abundant motivation of reason, the governors and sheikhs of the Arabs and others, of lower rank and notables were gathered. The assessment and perfection of revenues was conducted. When he informed them that the incompliance to this order that requires obedience had resulted in confusion of affairs, together they lowered their gaze in servility, and in the language of submission and most eloquent tongue of humility they presented the petition stating: “The weak and poor are not in position to render the imperial revenues. But the previous high-ranked governors did not make the horses of advancement and effort quick and persistent in the open arena of effectiveness because of the bridle of leisure and permissiveness. Since they eased the reins of

\textsuperscript{41} Orig. \textit{kharāc-l erāzi}. 

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tyranny of oppressors, tyranny of the oppressive kāshīfs\textsuperscript{42} stripped the arms of the subjects naked. Since it was not in the power of men and women to cover their bodies as required by modesty, they became so unveiled and in need of cover that “If the cover was lifted there would be no gain.” The obstinate sheikhs and tax farmers put their own subjects into such state of confusion that cannot be explained or described. If, with the luminous mind of his excellency the justice-admitting vizier, the structures of oppression and enmity were torn down, and if the inhabited world were repaired by the highly learned architect of justice, then it would be certain that the authority would be facilitated and sanctioned, – God the Most Exalted willing!”

Necessarily, his excellency, the possessor of the rank of Asaf, in the matter of repairing the dominion of Süleyman, showed generosity. His penetrating thought and sound judgment were focused and fixed on: first, to establish control over the victorious army of the beylerbey who is the governor of the protected province of Egypt, and other preeminent and dignified higher and lower commanders, and to write down the regulations regarding the cavalry soldiers – the refuge of victory – who are in the rank of officers under imperial command. And if the conduct and administration of those who are the representatives of local sheikhs and kāshīfs

\textsuperscript{42} In Arabic Kushshaf: the Mamluk title for the governor of a province.

\textsuperscript{43} “Setr-I avret etmeğe ricâl ve nisâda mecâl olmaduğû için mahcûb ve mugattâ değil dûr ki, Law kushifât al-ghatâ ‘mû azdûdat.’ Here the author uses the word “avret” (Arabic awrah=the parts of body that are required to be covered by modesty) as metaphor for the financial exhaustion of the subjects. The Arabic proverb is added to further emphasize their state of exhaustion to the point that there is nothing left to be taken.
demonstrate that their work is oppressive and deviates from the definite straight path, and if, when they transgress the established order and kânûn, their legal penalties and punishments, and the torment of Arabs, and if the long arm of patronizing and infringement of rights of the wolves of sheikhs with their tusks of oppression, and the cruel dogs of kâshîfs fall short of the skirt of safety of the subjects, then the fees, obligations, penalties and other innovations and inventions that everybody among the peasant groups became accustomed to from the time of the previous sultans, will be examined in detail and commented upon. Those procedures of the previous sultans that do not hurt the subject will remain. Those that are mere innovations and pure fabrications, and that the weak and poor complain of and are distressed by, will be removed. This will be ordered, arranged, designated, recorded and registered by imperial command.

Certainly, this imperial Kânûnnâme, loaded with justice, is based on perfect methods and most excellent compositions. After the generous sentences written in it and detailed explanation of the matters contained in it were presented to the heavenly throne, it was accepted by the sublime throne and brought into agreement with the opinions and methods of the great imams, and the following irresistible and irrevocable royal decree was issued. These just laws should become engraved in the seals of legal procedure and forever remain on the pages of government regulations. Their illustrious tenor should become the decisive text and their world-adorning meaning should become the evident proof.
And the Most Exalted God is the One who knows the best, is the Surest Judge and Most Perfect!
APPENDIX B

PREAMBLE TO THE KANUNNAME OF BOSNIAN SANJAK FROM

937 H./1530 C.E..

Praise be to God, whose existence comes from Himself and stands in eternity - Adam was not as yet mentioned, and pen was not yet writing and the tablet was not yet written – for what we took out of His Wisdom from the moon of non-existence into the desert of appearances and into Paradise (And He said: Verily We created Man from a drop of mingled sperm, in order to try him: so We gave him (the gifts of) hearing and sight)¹, for using His Might to teach us writing and knowledge that we did not have before (And He said: He taught writing and, and He taught man (insan) what he did not know, so we mention our Lord from sunrise to sunset)². And may God’s prayers and peace be upon the best of his deputies Muhammad, whom He appointed regulator to order the departments of public treasury and granted him the right of disposal of expenditures that are mentioned in revelation (He said in his hadith: “Take from the rich among them and give to the poor among them so that they become grateful and worthy of gratitude”), and to his family and Companions who wrote registers and account books and regulations containing the classes of

¹ Qur‘ân, 76:2

² Qur‘ân, 96: 4-5.
beraya and individual subjects (reaya), the segments of dominions and categories of
provinces, and the amount of what is owed, and the registers of villages, and quantity
of gardens, and numbers of fortresses, and proportions of land and plots, where
everything is ordered to the smallest things.

And this new detailed register contains all that is collected from the towns
(kasabas) and villages and arable lands, from what the land yields, and what is
collected of cizye (jizya) and harac (kharāj) and taxes, and what was made obligation
as a toll tax on old subjects, and what is apportioned of cizye and harāc on Vlach
infidels and Martoloses and çiftlikçis and others from various groups that were left
out of the registers of the Khâqân of Khâqâns in a detailed manner in the province of
Bosnia – May Most Exalted God protect it in months and years – from the hass
properties of the sultan and sancak bey, and what is included in the timars of judges,
and zeamets of its zaims, and timars of its cavalrymen, and guardians of its old and
new fortresses by the order of the Sultan, son of the Great Sultan, Khan, son of the
Glorified Khâqân, King of all nations, Caliph of God in the domain of knowledge,
protector of the lands of the People of the Faith, eraser of the traces of infidelity and
tyranny, distributor of justice and beneficence and equity, destroyer of the bases of
tyranny and oppression and injustice, patron of God’s followers, vanquisher of God’s
enemies, possessor of all worldly dominions, announcer of God’s exalted word,
shadow of God in East and West, Sultan of the Sultans in East and West, lion of East
and West in combat and war, one who is sahib kuran (lord of the auspicious
conjunction) the son of *sahib kuran*, pride of the Ottoman dynasty, who was given the name of the prophet Süleyman (Solomon) – peace be upon him – Sultan Süleyman, son of felicitous martyr, possessor of the manifest signs, bearer of splendid banners, conqueror of Syrian lands and Cairo, defeater of kings and heroic princes, sultan of Arabs, Iranians and Rûms, Sultan Selim Khân, son of Sultan Bayezid Khan, son of sultan Mehmed Khân – may the most exalted God spread the carpets of his caliphate over the earth forever, and establish his foundations above Ursa Minor until the day of resurrection – in the time of the vizierate of the minister of celestial revolution, Asaph³ of the time, named after Khalîlu’r-Rahmân⁴ - peace be upon him – spreader of security and safety, locus of glory and kindness, Sahbân⁵ honored by refinement and eloquence, one who perfects the interests of peoples, collector of praises and personal qualities, servitor of men of the sword and men of the pen, refuge of the leaders of the people of knowledge, recourse of most prominent notables and commanders, just establisher of the laws of the land, noble founder of the laws of knowledge, one who prepares the regulations for religious endowments, constructor of the foundations of charitable institutions, exalted among the *berâya*, donor of beautiful gifts, of great generosity, man of good fortune and faith, pride of Islam and the Muslims, and what else could he be but the greatest of viziers, proof of greatness,

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³ I.e. the secretary of king Solomon.
⁴ The Friend of God, i.e. Ibrahim (Abraham).
⁵ A master of eloquence contemporary to prophet Muhammad.
his majesty Ibrahim Pasha –may most exalted God make him reach what he desires, and may this world continue to be inhabited by his noble persona, and humankind protected by his justice, and may the suns of His excellency continue to rise from the rising point of good fortune.

Register books laugh while pens cry (i.e. register books prosper while the ink flows). It (i.e. the registration) began in the first decade of Rebi‘u‘l-evvel, in the year 935 (Nov. 13-23 1528) and was completed in the first decade of Muharrem, in the year 937 (Aug. 25-Sept. 4 1530, and God speaks the truth and shows the right way.
APPENDIX C

PREAMBLE TO THE KANUNNAME OF THE VLACHS OF THE SANJAK OF HERSEK FROM THE FIRST DECADE OF ŞEVVAL 939/APRIL 26-MAY 6 1533
Infinite praises and endless thanks are due to that Creator and His Majesty (the One who says): “Be, and so it comes to being.”\(^1\) For by creating heaven and earth and by fashioning being and place he makes manifest His Oneness and makes evident his Divinity. He created man honored among other creatures with most beautiful features and created Adam gracious with moral qualities and kindness among visible creatures. He adorned him with the garment of: “We created the human being in best proportions,”\(^2\) and graced him with: “We honored humankind.”\(^3\) He made each person the site of creative works and the manifestation of God’s attributes.

Countless prayers and pearl-like praises upon the illuminated and purified mausoleum and the exalted honored pure soul of the noble one of the prophets, the originator of clear discourse, the support of the pure ones (saints) of compassionate heart, the sugar-eating parrot of the sugar land of Oneness, the nightingale of the roses in the rose garden of Divinity, the beloved of the Lord, his excellency Muhammad Mustafa - the best of prayers and most perfect salutations be upon him – who confirmed the Divine Laws and declared the commands and precepts; who made his family and companions persist on the straight path, and his dependants and

\(^1\) Qur’ân, 2:117.

\(^2\) Qur’ân, 95:4.

\(^3\) Qur’ân, 7:70.
followers stand in pious and righteous effort. The Glorious and Exalted God, in respect of his prophethood and in honor of the beauty of his glory, for the sake of law and order in the world and peace of humankind made the sultans who are the pillars of Islam and khâqâns who are the men of faith favored and distinguished by the full exalted lot and sufficient portion of the noble gift of: "You give power to whom You please," and elevated them and made them superior with the high crown of: "The sultan is the shadow of God." He brought all affairs of the world and the protection of the masses of the community of believers within the grasp of their power and under the dominion domain of their control. He put the crown of: "You endow with honor whom you please." on their heads and clothed their noble persons with the robe of honor.

After this truthful introduction and these excellent words the subject is, before all else, Feridun-like Iskandar, the leader of felicitous sovereigns:

*That Khusrav,* whose story one day of which I will tell

*That is equal to one hundred years of the biography of Kâvûs* and Rustam.

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6 Feridûn (Gr. Pharaortes), ancient Persian monarch, a descendant of Jemshid, who overthrew the usurper Zuhak (Deiocytes) and reestablished the ancient Persian monarchy.

7 I.e. Alexander the Great.

8 I.e. the founder of the Persian Empire.

9 Kâvûs (Cambyses), king of Persia, and Rustam, a legendary Persian hero, son of Zal, prince of Zanbulistan.
That is to say, in the sanjak of Hersek, that was conquered in the period of rule and the time of caliphate of the felicitous in life and martyr in death, the deceased and forgiven of sin Sultan Muhammad Khan.\textsuperscript{11} -May God make him hear the call to Paradise and clothe him in the garment of forgiveness of sins – the filori tax was apportioned on Vlachs (in the amount of) 90 akçe from each household (under the name of) resm-I iflakiyye, and from the time of the conquest this was established in the above mentioned way. Now, the throne of the imperial state and the see of the caliphate of Lord of the Auspicious Conjunction (sahib kiran), protector of the community and religion, savior of the strong community of believers, bearer of the standard of sovereign greatness, erector of the tuğ of sovereign rule, commander (orderer) of the God’s lands, supporter of God’s servants, servitor of the two Holy Cities, ruler of the two continents and two seas, sign-giver of the affairs of the realm and community; lawgiver of religion and state; possessor of all climes of the world; spreader of God’s exalted words; reviver of the doctrines that were erased; raiser of the pillars of mosques and medreses; protector of gatherings witnessing the unity of God and profession of faith; destroyer of the corruptions of infidelity and rebellion; who commands worshipers to perform repentance and religious duties, designated

\textsuperscript{10} Ān Khusravī ki qissa-I yak ruže zaram u
Sad sale kâmâme-I Kâvus u Rustam ast

\textsuperscript{11} l.e. sultan Mehmed Fâtíh (1451-1481).
with the bestowal of honors (expressed in words: ) "He is the One who made you His deputies on Earth." 12

As Sultan Süleyman Khân is adorned with matchless personality and perfect body so the commands of the Creator are observed, and the affairs of His slaves are settled, and the worldly affairs are regulated, and the interest of humankind are protected. The uttermost wishes and perfect desires of the subjects (reaya), whom the Creator entrusted for protection, and who are the life-prolonging matter, are to be prosperous and peaceful under guardianship of his kindness and in shadow of his protection. However, the noble prophets - salutations and peace be upon them - while strengthened by divine support, and made successful through divine guidance, and inspired by the inspiration of the active intellect, were in need of an advisor in practical affairs according to “And consult them in affairs (of moment).” 13 As comprised by the world-adorning knowledge. Thus, that one whose intelligence and sagacity are, in every respect, the key to the doors of the dominion, and whose understanding and intuition are, in every respect, the lamp of the dawn of fortune, whose various virtues are known and manifest, and whose merits in (various) disciplines are evident and proven; who arrived at divine sunnah through perfect devoutness, who with his wonderful intelligence witnesses the signs of shari‘ā of the Prophet; source of the fountain of justice and beneficence that waters young trees in

12 Qur’ân, 6:165.
13 Qur’ân, 3:159
the garden of Muslims; guarantor of benefits of realm and religion, orderer of public affairs with firm opinion - "This is indeed Grace manifest (from God)"14 - who raises the banners of munificence and beneficence; who erases the traces of cruelty and oppression; director of the moon in the skies of good deeds; pivot of the sun supported by God, warrior on God's path, vizier in charge of running of state affairs, advisor of the people of abundance, his majesty Ibrahim Pasha – May God make him reach what he desires – is paragon of the age in matters of the vizierate and unique of the age in matters of justice; whose actions and words are distinguished, whose motion and rest are in congruence, whose ability of judgment in sphere of religion and worldly affairs is perfected and perfect, whose perception and insight in matters of state is comprehensive. Of this there is no doubt.

Therefore, upon examining an abundance of benefits and consultations of cautious minds his majesty the Padishah, the refuge of the world –may God perpetuate his caliphate – committed and conferred the vizierate upon his sagacity, subtlety of intellect, full ability and guidance. Applying his decrees and putting his commandments into force, his excellency, the above-mentioned pasha's knot-resolving mind and pearl-producing character became anxious to abolish the taxes that were previously apportioned on the Vlachs in the above-mentioned province. In reaching the right opinion and establishing a decisive judgment of apportioning the cizye, the sheep tax ('âdet-I agnâm) and other taxes, as those paid by other kharâj

14 Qur'ân, 27:16.
paying infidels, the world-obeying and obedience-requiring order was issued in this matter.

The paragon among Muslim judges, he who order religious affairs by applying restrictive ordinances of God and judicial decisions, the judge of Üsküp (Skopje), Mevlana Derviş – may his virtues be lasting – was appointed agent (emîn); and this modest servant of no substance, a particle of dust, a muteferrika of the scribes of the royal pantry, Abdullah, was appointed scribe; and in accordance with the noble sense of the royal decree, the apportioned cizye was divided into three parts: the highest in amount of thirty akçë, the medium in amount of twenty five akçë and the lowest in amount of twenty akçë.

In compliance with the exalted order, the recording was commenced on the first day of Rebi‘u’l-Evvel, in the year 935, according to the requirement of trust and the content of integrity, and it was completed on the first day of Muharrem in the year 938. When the balance register was presented to the exalted royal throne – may the Exalted God raise it forever and ever – because the levelling (of the status of Vlachs with that of serfs) was in accordance with the royal order and the register was in conformity with the manifest law, it was accepted. It was ordered that the law pertaining to the serf reaya group that lives among the mentioned group (i.e. the Vlachs) in the above mentioned province will be applied. Since their kânûnnâme was included in the serf register, it was recorded in details in the new royal register. It was
recorded and confirmed in a summarized manner, so when the kânûnâme is needed it can be found in the *serf* register.
APPENDIX D

EBU’S-SU‘UD’S DREAM
Matlab-ı ru’yâ el-mevlâ Ebi’s-Su‘ûd rahimahu’llâhu ta’âlâ fi haqqi Mawla Jâmi wa ibni Kamâl¹

Ebu’s-Su‘ûd – ʻalayhi rahmatu ʻl-wadâd- hazretleri didilerki Istanbul’da Dâavûd Paşa Medresesinde müderris idim bir gice váki’amda gördümki her cum’a namâzi kıldıgım


¹ Reşîd Ef. 985, p. 176b
was sallam – buyurdılar ki: Yâ Mevlâ Câmî ben ‘Arabî tekellüm iderem sen dahi ‘Arabî tekellüm eyle. Ol dahi bi tekellüfâne didiki: Yâ Resûlullah, ben seni ba’zî kasîdelerde çöç medh itmişim hattâ birinde

Fehm-i râzeş nekünüem ü ‘Arabî men ‘Acemî

Lâf-î mihrâş çe zenem ü Kureysî men Habeşî
dimişidim. Bu i’tizârim meğer hayyîz-i kubûlda vâki‘ olmadı mı didi. Resûlullâh –
salla Allahu ‘alayhi wa sallam – Hazretleri mûbârek ellerin uzadıb omuzını sigayub
özrün makbûdîr deyû buyurdular. Ne vechile tekellüm eylersen eyle. Işbu oturânı
bilür misiz didi. Hakîr sandîmkî kendimi gösterir Molla Câmî bilmezem deyûcek hâlå
(illegible) şeyh’ulislâm olan ibn Kemâldir didiler. Molla Câmî dahi tahrîr ü tasnîfi
çöç olan bu midir deyûcek budur deyû buyurdular. Andan sonra hakîrı gösterüb: Ya
buni bilürmisin didi. Molla Câmî dahi bilmezem deyûcek bu dahi şeyh’ulislâm
olisârdir deyû buyurdular.

Ol zamânında tarih kodum otuz yıl tamâm olicak emr-I fetvâ bize müyesser
olub vâki’a aynî vâki‘ oldî deyû Eyyûb Ensârî câmî’-i şerîfi imâmî ‘Abdülkâdir
Efendi nakl iderler – rahimahum Allâhu ta’âlâ ajma’în – sene 1158 fi mejmû’at’il-
akhi ‘Abdülkerim Ad-Dâğıstâni fi Sakîz.”
APPENDIX E

EBU’S-SU’UD’S LETTER ABOUT THE QIZILBASH
Qızılbaş tarafından ma’sûm hâcca giderken zuhûr iden i’lâm olundukda yazılan cevâb¹


¹ SK, Esad Efendi. 3431, f. 126b
APPENDIX F

WHILE COGNIZANT OF DISSENT: SOME ASPECTS OF THE CASH ENDOWMENT
The institute of cash-endowment is very important in the context of the study of Ottoman legal theory and legal practice. While the comprehensive study of this institute is not possible here, I will highlight the three distinctive aspects of the cash endowment that shed additional light on the role of legal discourse, and on the importance of communal life especially in the urban sphere. The first aspect is the significance of the development of this institute as a case in proof of the dynamic relationship between jurisprudence and legal practice. The second aspect reveals the relevance that the practice of cash endowment had for the development of Islamic physiognomy of the Ottoman urban sphere. At the current state of research it is only possible to offer a hypothesis about what may be a very significant aspect of cash endowment: its role in resolving the controversial issue of the resistance of the Ottoman state to the enlargement of private property over land.

Thousands of deeds of cash endowment (*vakfiyyes* or *vakifnâmes*) dispersed in the central and provincial archives of the Ottoman Empire, mostly contained within the qadi registers (siccils), and dated in the long period that begins with the early sixteenth century and ends in twentieth century bears witness to an institute that included almost all strata of Ottoman society in its core provinces. These documents regularly include the phrase “‘âlîman ‘an ‘il-khilâfi” (while cognizant of the dissent). The phrase is either included in the qadi’s certification of the document in its top portion, or it is given in the legal explication in the text, or both. This prolonged state of legal dissent never
reached a legal resolution. The state of the archive regarding the cash endowments that has come down to our time itself opens important questions, some of which will be discussed in this chapter.

First, it is evident that, despite the legal controversy, the practice never ceased. It can be witnessed throughout Ottoman history and, in some cases even after the Ottoman withdrawal from some of its European provinces. More importantly, the practice did not, as a rule, generate tensions among the Ottomans. After initial intensive debate among the Ottoman jurists, which included treatises and fetvas in favor and against the cash endowments, the state of dissent was acknowledged and the choice was left to those who wanted to establish such waqfs, while qadis only "processed" such endowments. The qadis' opinion in the matter could not create any obstacle. An undated Ebu's-Su'ud's petition from the Ma'ruzât collection informs us that the sultan issued the order to Ottoman judges to process such endowments.²

In spite of the richness of sources regarding the cash endowments including both the evidence of contemporary juridical discussion surrounding the issue, and the documents that bear testimony to its frequency and multiple purposes and benefits,

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¹ In Bosnia for example, after its annexation by the Austro-Hungarian Empire, all of the existing waqfs continued to function, and new ones were established as well. In the register of the K.U.K. Vakuf Direkzjon that included the copies of the deeds of endowments of all existing waqfs, and also the copies of the new deeds of endorsement, there are examples of cash endowments from the twentieth century. Among new cash-endowments there is one established by a certain Ali-beg Šarić in August 1912 for the benefit of the female and male students, and teachers of the local mekteb in the town of Stolac. The profit was to be used for purchasing books and clothes for poor students and for yearly awards for the excelling students and teachers. (GHB Vakifnâme collection, No. II-605)

² Akgündüz, Osmanlı Kanunnameleri, vol. 4, p. 47.
there has been a little scholarly interest in it. Aside from the excellent study by J. Mandaville and several works by Turkish historians, little attention has been paid to both juridical discussion and practical aspect of the cash endowments. The only monograph devoted to the pious endowment in Islamic law and in Ottoman practice published in Turkish language gives little attention to the cash endowment.

Within his eloquent argument in support of cash endowment the Halveti şeyh from Sofia Bali Efendi made the following statement:

“This waqf supports the activities of Friday services. If it were lost Friday would have no direction, the preacher and the prayer caller would be lost. Friday prayers would be abandoned.”

Şeyh Bali Efendi’s argument focuses on Rumelia, where “certain hospice complexes (‘imâretleri) …, certain schools and most of the mosques … are based on the cash

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3 The treatise that contains Ebu’s-Su’ûd’s interpretation in favor of the cash endowment, as well as his fetva on the issue are available in numerous copies and can be found in almost every manuscript collection in Turkey and in former Ottoman provinces.


waqf." He also states that "if Civizade Efendi had known how Islam was settled in Rumeli, then he would have known whether or not cash waqfs there were wrong!"  

The venerable şeyh must had been familiar with the fact that none of the Friday mosques (câmi’s) in the European part of the Empire were build by the income produced by the cash endowments. They were either endowed by the sultans or prominent military commanders, viziers or governors. However, he was certainly aware of the specific position of Rumelia, as the core province of the Empire, and its significance for the building of the Ottoman Islamic identity. It is true that building of the basic religious and educational infrastructure as well as the network of hospices was financed by the Ottoman sultans and prominent military leaders on the lands that were declared their private property (mülk) exactly for that purpose. However, that was clearly not the "basis" that the şeyh referred to in the quoted letter. The buildings alone could not ensure the maintenance of religious life. To be sure, these buildings were not the only property that formed pious endowments. Often, but not regularly, especially during the early period, additional properties, such as parcels of land, mills, and whole villages were added for the purpose of maintaining these buildings and their functioning as centers of religious and educational activities.  

The "settling of Islam in Rumeli," as the şeyh continues to argue, required maintenance of the activities of Friday services. And, "If it (i.e. the cash endowment)
were lost Friday would have no direction, the preacher and the prayer would be lost. Friday prayer would be abandoned.” 9 In the largely Christian Rumelia, the Muslim communities were mainly Turkish or Slavic speaking minority. In order to maintain religious life they were in need of leadership of educated imams and teachers who could perform various services for the community, and who new Arabic. Various duties related to the maintenance of religious life could not be simply divided among the members of the community, but were all under responsibility of the educated ulema, who had to be reimbursed for devoting themselves entirely to that role. While in the above argument the şeyh only alludes to the importance of cash endowment for financing “revitalizing Friday prayer,” he follows it by the clear statement that the “salary of leadership is permitted where salary otherwise is not permitted.” Indeed, the cash endowments provided finances for the various services performed by the learned.

The list of the beneficiaries of cash-endowments included imams, teachers, students, hatibs, muezzins and Sufis, but also the members of endowers’ families. Almost all of urban population relied on, or was in some ways associated with endowments of different kinds. Even when an endowment provided for the salary of imams from resources such as revenue collected from the endowed villages, or rent from the shops built as part of endowment, the cash endowments supplemented those salaries that lost the value over time due to the devaluation of the Ottoman currency. Thus, we have many examples of cash endowments that appointed the imams of

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9 Ibid., p. 302.b
particular mosques to perform prayer or recitation of the Qur’an for the salvation of the donor. Such duties infrequently carried a grant equivalent or even higher than the main salary of that imam.

Şeyh Bali argued for the benefits for the community that resulted from the profit created by cash endowments. Communal life and especially urban economy also benefited from this institute, precisely from the capital endowed. I shall illustrate the importance of this aspect of cash endowment on the example of the cash endowment in the city of Sarajevo in the province of Bosnia.

According to the tax register composed in 1604 the total number of Muslims in the city was around 21,000. While the sum of the capital of all cash endowments in the province (sancak) was 6,685,353 akçe, only in Sarajevo the sum was 4,416,823.

Finally, an important aspect of the development of cash-endowments, that had a decisive impact on preserving of the miri lands, needs to be addressed. As the legitimate practice of endowment required the full property of the endowed buildings and lands, the Ottoman sultans repeatedly issued documents of ownership (temlik name) to those who wanted to establish pious endowments. Commonly, as said earlier, the documents of ownership included not only the parcels of land on which the endowed builds were to be built but also a large number of parcels of land and whole villages to ensure the income for the maintenance of the buildings and salaries of

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10 This tax register records 3753 married, and 2179 single male adults (Adem Handžić transl. Opširni popis Bosanskog sandžaka iz 1604 godine, vol. 1, pt. 1).

11 The information is derived from: Ibid., vol. 1-3.
imams, teachers and others serving in these institutions. With the increase of cash endowments it is possible to follow clusters of vakifs in the urban sphere, consisting of religious, educational, welfare institutions and rental properties supplemented by a large number of cash-endowments. It is impossible to state, at this stage of research, that cash endowments replaced the land and the revenue collected from land use. It is obvious however, that cash endowments provided the necessary relief and obviously helped preventing further diminishing of the mirî lands in favor of the growth of the endowments.
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