Sacred Law in the Holy City

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The Khedival Challenge to the Ottomans as seen from Jerusalem, 1829-1841

By

Judith Mendelsohn Rood

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PREFACE AND ACKNOWLEDGEMENTS

This book began as a doctoral dissertation for the University of Chicago History Department. The project took form during my first year there in a class on Islamic court documents taught by Abdul-Karim Rafeq. I thought it would be extraordinary to undertake this kind of research in Jerusalem, and with the help and support of Professor Amnon Cohen of Hebrew University, I submitted an application to the Jordanian Ministry of Islamic Foundations, which at the time administered the Islamic Endowments of Jerusalem. I received permission to undertake research in the Islamic Court in Jerusalem in 1985: I am told that I was the first woman ever to do this, and I was the first American since the Six Day War to work in the archives there.

My preparation for this work was done under the instruction of Halil Inalcik, the eminent scholar whose encyclopedic knowledge of the socioeconomic institutions of the Ottoman Empire was both inspiring and invaluable. Over the years he has proven to be a man of integrity as well, willing to shape a student into a scholar. My academic advisor at the University of Chicago, Fred M. Donner, encouraged me that what I proposed was important, and with what knowledge I had of the language of Jerusalem in the early nineteenth century, and a dissertation research fellowship from the Lady Davis Foundation of Hebrew University in hand, I set off to delve into the court registers under the gracious direction of Professor Cohen.

Over the next year and a half, I worked literally at the elbow of the retired Islamic judge, Shaykh Muḥammad Asʿad al-Imām al-Ḥusaynī. His gentle good nature brought great comfort to my work, and as we learned to work together, he would often pass me little notes with notations, sources, or sayings for me. On one slip of paper he wrote: "*al-ʿilm sīla bayn ahlihi*," which means "knowledge is a link between its people." This note meant so much to me—he, an aged *ʿālim*—was recognizing me as a fellow scholar. As a lifelong member of the Jerusalem *ʿulamāʾ*, Shaykh Asʿad remembered details of Muslim life in Jerusalem during the Ottoman, British, Jordanian, and Israeli periods. He was an affable man, who loved his wife, Widad, and

his daughters, whom he named after flowers. He was committed to the education of women, and taught at the Islamic girls' college in Jerusalem, where he had me meet and talk with young women living under the harsh circumstances of occupied East Jerusalem. Once, Shaykh Asʿad rented a car and drove Paul and me all over the West Bank to show us important Islamic sites: among these was the synagogue at Jericho, which his family cared for—and which a mob destroyed during the *Al-Aqṣā* Intifada, which I know would have grieved him deeply. He was proud of the protections that Islam had afforded Jews once, long ago. Of all the people who have helped me, Shaykh Asʿad influenced me most: in his quiet, gentle, and good-natured way he proved to me that people with opposing worldviews could work together in dignity and respect. I will never forget his kindnesses to Paul and me. His was another time.

The officials at the Islamic Court in Jerusalem—the late Muftī Shaykh Saʿad al-Dīn al-ʿAlamī, the Chief Judge Ibrāhīm Sabrī, the Chief Clerk Zayn al-ʿAlamī, and the rest of the staff reluctantly and warily facilitated my research. Every day began with a cup of tea. We engaged in unforgettable conversations about all sorts of topics. The younger staff was, in 1985, already strongly influenced by the Islamicization of Palestinian life, and asked hostile questions about America—AIDS and immorality in general were their main concerns. Once, one of the younger men stated that the Holocaust had never happened (in those days, Jordan's schools excluded any mention of it) and, as I was about to reply, Shaykh Asʿad interjected. He asked, "There were millions of Jews in Europe before the war, where do you think they all went?" His quiet authority hushed the room. "Of course they were all killed in what the Jews call 'The Holocaust.'" In February of 1986 one of these young men warned me to change my travel route from my apartment in West Jerusalem to East Jerusalem frequently, and to remind my husband to keep a low profile, because some didn't like my presence in the court.[1] Grateful for the warning, we changed our routines, and never experienced any of the harm that less fortunate people experienced that

[1] Laura Blumenfeld has written a book entitled *Revenge: A Story of Hope* (New York: Simon and Schuster, 2002) about the Abu Musa gang that was responsible for a series of shootings and stabbings of foreigners—including her own father—in the Old City in 1986. It seems ironic that a member of the newly formed Hamas organization warned me about this danger.

year before the outbreak of the first Intifada, the Intifada of the Stones.

Upon my return to the States, Rashid Khalidi became one of my readers, and with Halil Inalcik and Fred Donner, helped me to complete my dissertation. I owe each of these scholars a special debt of gratitude for their help and integrity. Other scholars, who helped me one way or another before or after I finished my dissertation include: Michael Hudson, Moshe Ma'oz, Hisham Sharabi, Ibrahim Ibrahim, Barbara Stowasser, all at Georgetown; Abdul-Karim Rafeq of the University of Damascus, later William and Mary; Butrus Abu-Manneh at Haifa University; and James Reilly at the University of Toronto. I am especially grateful to Virginia Aksan at McMaster University and Jane Hathaway of Ohio State University, both of whom helped and encouraged me, showing a true generosity of spirit. Biola University funded the final editing process, and Suraiya Faroqhi and Halil Inalcik helped with the finishing touches and brought the study to publication. Trudy Kamperveen at Brill was able to pull this project together for me and for that I will be ever in her debt. The Ashmolean Museum in Oxford allowed me to use a rare photo of the interior of the Tankaziya and Gene Berryhill, my colleague at Biola, helped me with my photo of Shaykh As'ad and me in the court. The Middle East Studies Center and the Geography Department of the University of Chicago created the maps based on my drawings. Daniel McNaughton of Paleograph, Inc. did a yeoman's job with the copy editing; nevertheless there are flaws still to be found in it and for them I alone am responsible. Joe Guitierrez, my computer specialist, kept me sane during the final stages.

My professors at New College, especially Lee Snyder and Justus Doenecke, were the ones who prepared me to do my work, and I wish them both well in their retirement this year. Akira Iriye was enormously supportive, and when he left Chicago to head for Harvard, I lost a mentor but kept a friend. My students and colleagues at William Tyndale College and Biola University have been real inspirations to me and I am thankful to them for their enthusiasm and interest.

My parents, Miriam and Herbert, raised me to be a scholar, even though they might not have known that while I was growing up. Their unconditional love has been a constant throughout my life, and I am thankful that they and Omi are able to see the fruits of my labor. My sons, Samuel and Joshua, have grown up with a

mother who's always been working away at a big project, as hard for her as their school work has been for them at times. We've studied, researched, traveled, talked, and written about all kinds of fascinating subjects over the years together. It has been meaningful for me to know that I am a source of inspiration for them in their lives. Their love and support has been unselfish, even when I have been distracted and stressed by my labors! Yet beyond this enormous cloud of friends, colleagues, and family, only one person has given me space for my scholarly profession and who has given me joy. And for that reason:

This book is lovingly dedicated to my husband Paul, who has done so much to make my work possible, and who has loved me in spite of it.

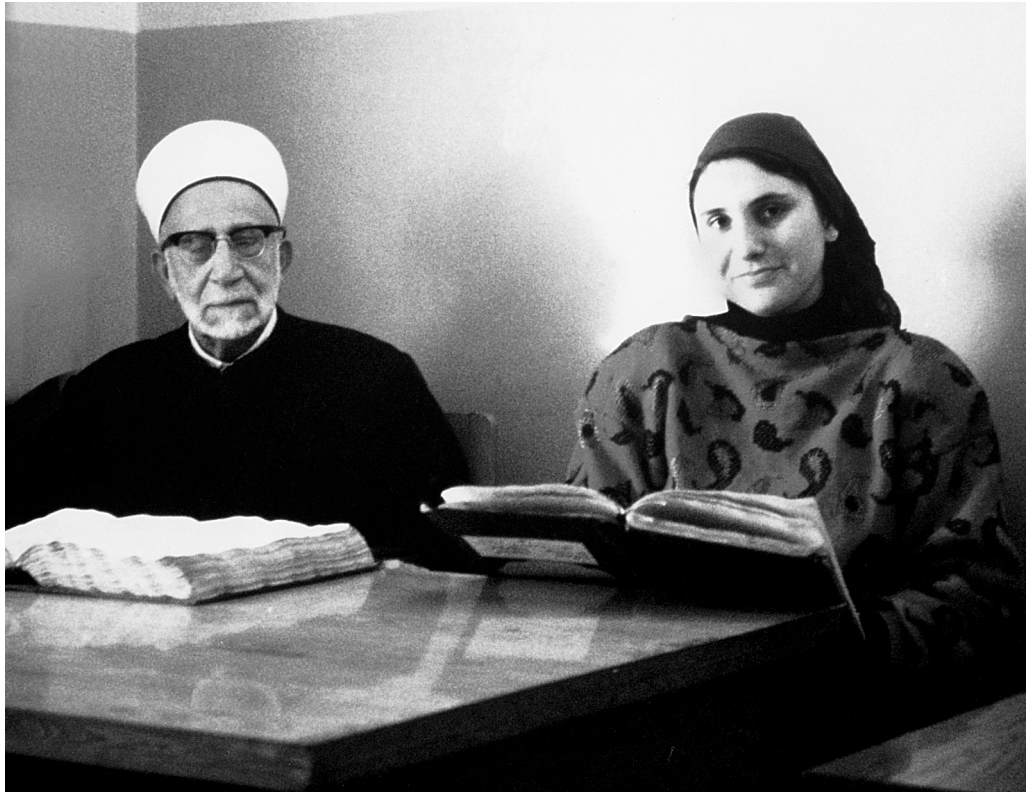

Fig. 1. The Author and Shaykh Muḥammad Asʿad al-Imām al-Ḥusaynī, December 19, 1986.

CHAPTER ONE

INTRODUCTION

The Ottomans, as successors to the Ayyubid and Mamluk dynasties, articulated a legal foundation for empire based firmly in the precepts of Sunni orthodoxy.[1] As the guardian of the Islamic holy cities of the Hijaz, Mecca and Medina, and of the Holy Land and Jerusalem, the Ottoman Sultan-Caliph defended the faith as much against the heretical Shiʿis of the Safavid Empire to the east as against the mercantilist Christian empires to the west. Ottoman control of these sites symbolized the ascendancy of Sunni orthodoxy over Shiʿism. Indeed, the very structure of the Ottoman administration of these cities as a unified endowment—the *Waqf al-Ḥaramayn al-Sharīfayn* (the *Waqf* of the Two Sanctuaries, meaning the cities of Mecca and Medina)—symbolized the position of the Ottoman dynasty as the protector of true Islam.

Starting in 1834, new sociopolitical organizing principles began to take root in the Arab world. Muḥammad ʿAlī, renegade provincial Governor-General of the Ottoman province of Egypt, had risen from the obscurity of Albanian irregular militias to become the most serious political challenge ever faced by the Ottoman Empire. In Egypt, he sowed the seeds that would ultimately destroy the empire and with it the entire system of privilege that had upheld the Sunni ruling class under Ottoman dominion. In this study I seek to show that legal reform in the Ottoman Empire during the nineteenth century was spurred on by internal political pressures, and not, as is commonly thought, by the West. As my work makes clear, Islamic law, the sacred *Sharīʿa*, has always in the Ottoman context been complemented by laws devised to administer the empire, laws that were straightforwardly human in invention. This administrative law, the *Qānūn*, never challenged the position of the *Sharīʿa* and its upholders,

[1] Two indispensable recent works synthesizing recent scholarship in the field of Ottoman history are Suraiya Faroqhi, *Approaching Ottoman History: An Introduction to the Sources* (Cambridge: Cambridge University Press, 1999), and Donald Quataert, *The Ottoman Empire, 1700–1922* (Cambridge: Cambridge University Press, 2000).

the *ʿulamāʾ*, as the fundaments of Ottoman rule. Muḥammad ʿAlī, however, in developing strategies to usurp Ottoman control began to institute his own system of law, one designed to assure his control over the resources of the Provinces of Egypt and Syria and which made only the barest reference to Islamic law.

Over the centuries, the theory and practice of Islamic government in effect had led to the development of two complementary legal systems.[2] Underlying the foundation of the Islamic polity was Islamic law: the *Sharīʿa*. The need to develop governmental ordinances not covered by Islamic law had led to the creation of a corpus of administrative law known in Ottoman times as the *Qānūn*. Applicable legislation contained in the Ottoman administrative law code was integral to the detailed financial and demographic surveys (*daftar mufaṣṣal*) of each district as it was incorporated into the Ottoman Empire and which served as a sort of fundamental law governing that district.[3]

While the *Sharīʿa* and the *Qānūn* together possessed unquestionable authority, the Administrative Law (*Siyāsa*) and Customary Law (*ʿUrf*) were weaker sources for political legitimacy. The *Siyāsa* represented the parameter of authority given by the Sultan to provincial governors-general in the exercise of their duties, as will be explained in greater detail below. *ʿUrf*, on the other hand, was the parameter of authority lent to the customary rules and norms of the diverse locales of the empire. Each specific place had its own traditions and rules, and these were recognized as legitimate so long as they did not contravene the *Sharīʿa* or the *Qānūn*, the total corpus of Ottoman Administrative Law. Local public opinion could be expressed by citing *ʿUrf*;

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[2] Fauzi M. Najjar, "Siyasa in Islamic Political Philosophy," in *Islamic Theology and Philosophy: Studies in Honor of George F. Hourani*, ed. Michael E. Marmura (Albany: State University of New York Press, 1984), 93–101. For an excellent disputation of Weberian misconceptions regarding Ottoman law see Haim Gerber, *State, Society and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994).

[3] Amnon Cohen and Bernard Lewis, *Population and Revenue in the Towns of Palestine in the Sixteenth Century* (Princeton: Princeton University Press, 1978), 11. This work has a good introduction to Ottoman financial administration of the provinces, see 3–42. See also H. Inalcik, "Kānūn" and "Kānūnnāme" in *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill); Ömer Lutfi Barkan, "*Kānūnnāme-i Liva-i Kūdus*," in *Kānūnlar xv ve xvi inci asırlarda Osmanlı imperatorluğunda zirai ekonominin hukuki ve malı esarlardı* (Istanbul: Bürhaneddin Matbaası, 1943), I:217–9; and the excellent study by Wolf-Dieter Hütteroth and Kamal Abdulfattah, *Historical Geography of Palestine, Transjordan, and Southern Syria in the Late Sixteenth Century* (Erlangen: Selbstverlag de Frankichen Geographischen Gesellschaft, 1977).

government policy could be enforced by claiming that a particular local custom was counter to the *Sharīʿa*. Scholarly controversy over the admissability of *ʿUrf* as a source for law had further weakened its legitimacy, but its strength was its importance to the people of the cities, towns and villages of the empire, by which they advanced their own interests and autonomy.[4]

Law was the element which bound together the various classes of Ottoman society. The Ottoman Empire was a patrimonial-bureaucratic state which found its legitimacy in a conception of justice rooted firmly in the Sunni tradition of Islam that Ṣalāḥ al-Dīn al-Ayyūbī revitalized after his defeat of the Fatimids in the twelfth century. The achievement of the Ottomans was their development of the machinery that would infuse their sense of law, both sacred and positive, divinely revealed and man-made, into their relations with the societies that they ruled. The development of codes of administrative law and the interpretation of the *Sharīʿa* enabled the Sultan to find sanction for his authority, and with this sanction he was able to rule justly and to represent justice to his subjects. Governed by those laws, the Sultan and his household could then exercise the authority to defend and expand Ottoman dominion and to raise the revenues required by the creation and maintenance of imperial armies. With just rule, the Sultan would be blessed by prosperous subjects who would contribute taxes for the maintenance of the empire. The Sultan of the Ottoman Empire could in no way be a tyrant, because he did not hold absolute power. The Sultan ruled as Caliph, the successor to God's messenger to the world, the Prophet Muḥammad, and, in accordance with the Sunni tradition as interpreted by the ranking religious official, the *Shaykh al-Islām*, had to abide by the *Sharīʿa*. He could administer the state only insofar as his policies were in accordance with the Sacred Law of Islam.[5]

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[4] On this controversy over *ʿUrf*, see Madeline C. Zilfi, *The Politics of Piety: The Ottoman Ulema in the Postclassical Age 1600–1800* (Minneapolis: Bibliotheca Islamica, 1988), 145. See also Mrs. [James] Finn [*sic*], 'The Fellahin of Palestine: Notes on their Clans, Warfare, Religion and Laws,' *Palestine Exploration Quarterly Statement* (1879): 38–48.

[5] On the Ottoman circle of justice and an excellent introduction to the classical Ottoman system of rule, see Lewis V. Thomas, *A Study of Naima*, ed. N. Itkowitz (New York: New York University Press, 1972); Cornell Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa ʿAli (1541–1600)* (Princeton: Princeton University Press, 1986); and Karen Barkey, *Bandits and Bureaucrats: The*

Thus, under the classical Ottoman government of the sixteenth century until the time of Muḥammad ʿAlī, there were two inherent systems of rule. The Sultan epitomized both the religious and the administrative laws of the empire: the *Sharīʿa* and the *Qānūn*. Under the early Ottoman system, the *Qānūn* was "composed of diverse elements, including local custom and the will of the ruler as well as principles of *Sharīʿa* law." Later, it came to mean 'state-made' law.[6] Intertwined, the *Qānūn* and the *Sharīʿa* were administered in the *Maḥkama*, or Islamic law court, until the time of Muḥammad ʿAlī.[7]

This is a study of Jerusalem during the 1830s. It means to clarify and analyze the social, political, and legal setting of Jerusalem and its hinterlands in the first half of the nineteenth century, and in so doing illustrate the broader changes in Ottoman administrative policies of that time. Jerusalem was at once a small Ottoman provincial city and a place of great religious and symbolic importance. This was reflected in an order appointing the deputy-governor of Jerusalem, which stated: "This city is among the noble places, and is the desire of all the nations of the world."[8] This was both a boast and an expression of concern, particularly after the Napoleonic invasion of 1798.

Jerusalem has to be understood as more than a city and its hinterland: it was deeply involved in the politics, society, and economy of the Ottoman provinces of Damascus, Sidon, and the Hijaz. For

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Ottoman Route to State Centralization (Ithaca: Cornell University Press, 1994), 24–54, especially 27–8. Also, Linda T. Darling, '"Do Justice, Do Justice, for That is Paradise": Middle Eastern Advice for Indian Muslim Rulers,' *Comparative Studies of South Asia, Africa, and the Middle East* 23 (2002): 3–19, and Fleischer, "Royal Authority, Dynastic Cyclism and 'Ibn Khaldunism' in Sixteenth Century Ottoman Letters," in *Ibn Khaldun and Islamic Ideology*, ed. Bruce B. Lawrence (Leiden: E. J. Brill, 1984). On the rearticulation of Sunnism in the twelfth century by Ṣalāḥ al-Dīn, see F. E. Peters, *Jerusalem: The Holy City in the Eyes of Chroniclers, Visitors, Pilgrims, and Prophets from the Days of Abraham to the Beginnings of Modern Times* (Princeton: Princeton University Press, 1985), 333–79. His *The Distant Shrine: The Islamic Centuries in Jerusalem* (New York: AMS Press, 1993), 125–82 is of less use because of the lack of references in the text.

[6] Bernard Lewis, *The Political Language of Islam* (Chicago: The University of Chicago Press, 1988), 114–5.

[7] Orders were issued and applied in accordance with the *Sharīʿa* and the *Qānūn*; for example, see Cohen and Lewis, *Population and Revenue*, 3, 6, 11, 39 n. 59. See also Amnon Cohen, *Economic Life in Ottoman Jerusalem* (New York: Cambridge University Press, 1989), 6, 15, 41–2, 88 and Cohen, *Jewish Life Under Islam: Jerusalem in the Sixteenth Century* (Cambridge: Harvard University Press, 1984), 69–70, 154, 167–8, 175.

[8] *Law Court Record of Jerusalem* (hereafter *LCRJ*), vol. 321, p. 5 (hereafter 321, 5), 5 *Ramaḍān* 1252/15 December 1836.

that reason, the history of Jerusalem must be integrated with that of *Bilād al-Shām* (geographical Syria), and that of *Bilād al-Shām* with the history of the Ottoman Empire.

In 1831, Muḥammad ʿAlī, the Ottoman Governor-General (*Wālī*) of Egypt, invaded and occupied all of *Bilād al-Shām*, or the territories covered by what is today Israel, Gaza, the West Bank, Lebanon, Jordan, and Syria. He did this as a challenge to the Ottoman Sultan, Maḥmūd II. During this period, Muḥammad ʿAlī, bearing the title 'Khedive,' created a new government for the occupied area, administered under a series of decrees by a new bureaucracy of his own design, influenced by the Napoleonic Code and the many French officers who were helping him to modernize his military forces.

In 1834, a major rebellion broke out in Jerusalem against Muḥammad ʿAlī. Many scholars have viewed that rebellion as a precursor to Palestinian nationalism. Here I have analyzed the role of the various elements of the Muslim community of Jerusalem and its environs within the context of the history of the Ottoman Empire in order to place that rebellion in its proper historical, legal, and administrative context.

Muḥammad ʿAlī did not merely overturn the political order of Ottoman administration in geographical Syria (*Bilād al-Shām*). Rather, he instituted policies that effectively cut the local Palestinian political elite off at the knees. The decrees and policies enacted by Muḥammad ʿAlī were self-consciously styled as the laws of a new polity, which at first was called 'The Just Egyptian State' (*al-Dawla al-Miṣriya al-ʿAdila*), or the 'Just State' (*al-Dawla al-ʿAdila*) but which soon would be referred to as Khedival.[9] The rebellion that ensued in response to the Khedival occupation of Syria and the promulgation of a new corpus of law were phenomena that evidenced the fundamental changes wrought by Muḥammad ʿAlī's regime in *Bilād al-Shām*.

This small-scale study thus presents an opportunity to compare the application of Ottoman law by another type of Muslim regime, that established by Muḥammad ʿAlī in the same place—Jerusalem—and within a short period of time—the 1830s. This makes possible a pointed comparison of two forms of 'Islamic government,' and to

[9] *LCRJ* 317, 39, 49, 60; 318, 70, 110; 320, 34–5, 82, 171; 321, 234; 323, 33, spanning the years 1832–1839.

consider whether there was a certain aspect of Islamic law that both regimes respected in administering the Holy City.

Moreover, the clear bifurcation of law under Muḥammad ʿAlī into two spheres—the military/political/economic and the religious/personal—is specifically what differentiated the Khedival and Ottoman regimes. This process is the critical new element introduced into the administering of Jerusalem, and that of all *Bilād al-Shām*, during the nine-year Egyptian occupation. The institutionalization of two separate legal institutions—one to govern civil society and the other to manage personal status—was made possible when the old conception of lawful government inherent in the Ottoman system was rearticulated with the creation of two complementary entities: the *Sharīʿa* Court and the Consultative Assembly, one governed by Islamic law and the other by the independent decrees of the rebel Khedival regime.

Muḥammad ʿAlī's choice of the term 'Khedive' (Arabic: *khidīw*) as his title is significant. This word, from the Persian meaning 'prince' or 'lord', was not one used by the Ottomans for provincial governors-general. To understand why Muḥammad ʿAlī would choose this title, I found it necessary to reexamine his relationship to the Porte. This member of the class of Ottoman provincial notables (*aʿyān*) struggled with the Sultan to change the nature of rule in the empire. Muḥammad ʿAlī, knowing that his aim of establishing a hereditary dynasty would create a new form of government in the empire, chose a title for himself and his government that would underscore both innovation and royalty. The ultimate success of Muḥammad ʿAlī signified the creation of a new kind of authority in the Ottoman system. Muḥammad ʿAlī's establishment of a new dynastic line upon his withdrawal from Syria was the ultimate vindication of this remarkable individual. In recognition of his revolutionary challenge, the government of Muḥammad ʿAlī is called here the 'Khedival' regime. To simply call it 'Egyptian' is misleading: during this period it is incorrect to convey the notion of a nation-state in Egypt. The Porte did not officially confer the title of Khedive on the rulers of Egypt until 1867, preferring until then to use the old title of *wālī*. The use of the term ended in 1914 with the end of Ottoman rule over Egypt.[10] During the period under study, the title of Khedive expressed

[10] J. C. B. Richmond, *Egypt 1798–1952: Her Advance Towards Modern Identity* (New York: Columbia University Press, 1977), 31–70, and F. Robert Hunter, *Egypt Under the Khedives: 1805–1879* (Pittsburgh: University of Pittsburgh, 1984).

the significance of the actions of Muḥammad ʿAlī in regard to his relationship with the Porte and Sultan Maḥmūd II.

In this study, I have been concerned with the idea of the rule of law in Islamic states. The assumption that underlies my interpretation of the Islamic Holy Law is that the *Sharīʿa*, to the believing Muslim, represents divine legislation with universal application. At its heart, the *Sharīʿa* embodies the ideal of the possibility of justice in this world. In Western thought, this belief in the possibility of a universally applicable standard of justice resides in the concept of natural law. It is for others to debate the difference between positive, or man-made laws legislated by particular groups in pursuit of special interests, rule-by-decree, and divinely established natural law. Of course, non-Muslims will reject the idea that the *Sharīʿa* is truly a revealed law, but that is not the issue here. My point is that believing Muslims have faith in the divinity of the *Sharīʿa* and that it must be the sanction for all other codes governing human society. In a similar way, the concept in the West of natural rights, upon which constitutional government is based, rests upon a foundation of faith in a divinely created order. In the late twentieth century this basic concept has lost ground in the West, but that too is far beyond the scope of this study. Nevertheless, I would like to suggest that it would not be amiss to interpret the meaning of the *Sharīʿa* to a believing Muslim in the Ottoman Empire as something akin to the Western concept of natural law, embodying a faith in a universally applicable standard of justice, rather than a specific set of laws, as understood in Wahhabi doctrine.[11] It was this universal standard of justice that informed the great fourteenth-century Islamic historian Ibn Khaldun's interpretation of history found in his *Muqaddima*, a work which influenced the political and legal reforms of the Ottoman Empire in the nineteenth century, and my own interpretation of the meaning of the *Sharīʿa* for the Ottomans.

Of course, the *Sharīʿa* does mandate rules of evidence and punishments, but over the centuries of the development of Islamic law, wide interpretations of those mandates have been articulated by Muslim jurists. The Ottoman Empire based its juridical traditions on the Ḥanafī legal school of interpretation, and founded its administrative

[11] Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority, and Women* (Oxford: Oneworld, 2001), 6–7.

codes firmly in the *Sharīʿa*. The flexibility of the Ottoman judicial tradition allowed the laws of the empire to encompass far more than the *Sharīʿa*, adapting the local codes of its conquered territories into its provincial laws, including non-Muslim customary laws and the codes of its predecessor Muslim states, but always with the explicit acknowledgement of the primacy of the Holy Law, even over the Sultan as Caliph.

The Ottoman legal tradition was modeled upon the classical Sunni legal traditions codified during the Abbasid period, which had been reasserted by Ṣalaḥ al-Dīn al-Ayyūbī (Saladin) when the Islamic heartland was wrested away from the hands of both Crusader and Fatimid Shiʿite. When Jerusalem was enfolded into the Ottoman Empire, along with the Holy Cities of Mecca and Medina, the Ottomans attained political hegemony over the three religious capitals of Sunni Islam. The Porte, over time, consciously articulated a legal code grounded firmly in Sunni precepts of law and government, a code to which even the Sultan was obedient. Until Muḥammad ʿAlī's rule, the various administrative codes that complemented the *Sharīʿa* in the Ottoman Empire never challenged the idea of a divinely revealed law.

What I show in this study is that while there were pressures from the West for legal reform in the Ottoman Empire, there were even stronger pressures within the empire for change. These pressures were the result of a long period of provincial administrative change, a period with its roots in the sixteenth century: the emergence of provincial notables, and the tension between the center and periphery of the empire. Muḥammad ʿAlī emerges in this analysis as the epitome of the *aʿyān* class in Ottoman history, an individual who straddles the early modern and modern periods: a leader who rose through traditional service in the provincial militias and who asserted his power through the promulgation of a separate and distinctive administrative law code meant to replace that of the Ottomans.

By concentrating on a specific place in a specific time, in this study I attempt to place the government of Jerusalem within the Ottoman context, and to then contrast Ottoman forms of rule with the regime imposed by Muḥammad ʿAlī in the early nineteenth century. My focus here is the Sunni Muslim community of Jerusalem, and therefore the Jewish and Christian communities living in the city are beyond the scope of this discussion, except insofar as they relate to the subject under study.

Sources and Issues

When I began my research in 1985, I attempted to accomplish three goals. The first was to focus upon the Muslim character of Jerusalem, a city about which so much has been written, but with so little attention to the Muslim community, its history and its institutions. The second was to take a specific time period and a specific place as a case study in order to interpret Ottoman government. Finally, my third goal was to write this study in a way that would be useful to the specialist and accessible to the general reader. The structure of this book reflects those three goals. This introduction provides a general orientation to the scholarly issues relevant to the study. The second chapter is meant for the general reader who lacks familiarity with the Ottoman Empire and the history of the Arab provinces under Ottoman rule. Chapters Three, Five, and Seven narrate the political history of Muḥammad ʿAlī's invasion of Syria in 1831, the 1834 rebellion, and his ultimate retreat from Jerusalem and *Bilād al-Shām*. Chapters Four and Six analyze the judicial and political administration of the region under Khedival control.

My analysis is based upon Islamic legal documents and the contemporary observations of Western travelers, residents, scholars, and diplomats, and the growing body of historical research on the Ottoman period. My primary source was the challenging and rich archive of the Islamic Court of Jerusalem. To read these documents I had to dive in and familiarize myself with the difficult handwritten colloquial Arabic unique to the court records. Without the assistance of the late Islamic Judge Shaykh Muḥammad Asʿad al-Imām al-Ḥusaynī, I would never have been able to be certain of my readings of these documents. I drew upon the considerable scholarship available on the Ottoman Empire and Islamic history in general to make sense of what I found. In combining these resources, I hoped to interpret the local politics of Jerusalem within the broad context of the history of Ottoman socioeconomic institutions. As a result, I entered the fascinating, ongoing study of provincial administration in the Ottoman Empire, and found that my study could contribute to that subject as well.

In studying Ottoman history in the Arab provinces, I have been interested in examining the intersection of religion, political theory, law, and government. It has been useful to underpin my study of political history with evidence drawn from documents preserved in

the archives of the Islamic Court. Rather than surveying a long period of time and selecting samples at arbitrary intervals, I chose to focus on one decade—the period of Muḥammad ʿAlī's occupation of Palestine—because it was a brief, self-contained unit of time during which there was both great change and great continuity in the Muslim institutions of government in Jerusalem. The existence of the complete Islamic Court registers for this period and their availability for research decided my course of action.

This study reflects changes in the historiographical traditions of Middle Eastern history over the past twenty years. Historians of the nineteenth-century Middle East have shifted from the theoretical abstractions of political thought to the concrete documentation of archival evidence. This change reflects a renewed recognition that the Arab provinces were once a part of the Ottoman Empire. When the empire collapsed, and Anatolians turned both to their Turkish identity and to the West, the Arabs of the empire were cut out and cut off from the political culture of an empire that had shaped their lives for four hundred years. A century after the decision of Arab and Turkish nationalists not to seek a common ground upon which to establish a regional system of government, the historiography of the Arab world still focuses upon the Arab Nation and the history of the states that were created following the Ottoman collapse, effectively dispossessing modern Arab states of their roots in the Ottoman Empire.[12]

However, as the historiography of the Ottoman Empire has become accessible to non-Turks, and pioneering Turkish historians have demonstrated the utility of Ottoman archival records for research, much has been done to bridge the separation of Arab and Ottoman history.[13] The availability of documentary evidence located in the archives of Arab cities has fueled interest in the Ottoman period.

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[12] See, for example, Youssef M. Choueiri, *Arab History and the Nation-State: A Study in Modern Arab Historiography, 1820–1980* (New York: Routledge, 1989). However, it ought to be argued that it is not only Arab historians who have embraced this approach to modern Middle Eastern history. Rashid Khalidi's *Palestinian Identity: The Construction of Modern National Consciousness* (New York: Columbia University Press, 1997) is a historiographical watershed in its examination of the concept of Palestinian nationalism.

[13] The two Turkish historians who blazed the way are Ömer Lutfi Barkan and Halil Inalcik. See Inalcik, "Centralization and Decentralization in the Ottoman Administration," in *Studies in Eighteenth Century Islamic History*, eds. Thomas Naff and

The late historian Albert Hourani, reviewing his lifelong study of Arabic social and political thought, described his attempt at "tracing two lines of influence: one which ran from medieval Islamic thought to the modern age, and the other which came outside the Arab and Muslim world, from Western Europe and in particular from England and France." Assessing his work, he wrote, "I think I was unduly concerned with the second line, and neglected the first." Hourani therefore called for "small-scale studies of limited regions and communities within a broader framework."[14] The impact of this recognition has led to a renewed appreciation of the importance of studying Ottoman history and documents in the historiography of the modern Middle East, and has encouraged research using the Islamic Court records for the study of the Arab provinces of the Ottoman Empire.[15]

For the study of the history of Jerusalem, these trends have been particularly auspicious, because scholarship on the region has been

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Roger Owen (Carbondale: Southern Illinois University Press, 1977), 27–52; 'Military and Fiscal Transformation in the Ottoman Empire, 1600–1700,' *Archivum Ottomanicum* 6 (1980): 283–337; and *The Ottoman Empire: Conquest, Organization and Economy* (London: Variorum Reprints, 1978), chaps. 13–15. See also Bernard Lewis' work, beginning with *The Emergence of Modern Turkey*, 2d ed. (London: Oxford University Press, 1968).

[14] Albert Hourani, *Europe and the Middle East* (Berkeley: University of California Press, 1980), 188–9.

[15] See Bruce Masters, *Christians and Jews in the Ottoman Arab World: The Roots of Sectarianism* (Cambridge: Cambridge University Press, 2001); Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998); Beshara B. Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700–1900* (Berkeley: University of California Press, 1995); Najwa al-Qattan, "Dhimmis in the Muslim Court: Documenting Justice in Ottoman Damascus, 1775–1860," (Ph.D. diss., Harvard University, 1996); R. Y. Ebied and M. J. L. Young, *Some Arabic Legal Documents of the Ottoman Period: from the Leeds Manuscript Collection* (Leiden: E. J. Brill, 1976); John E. Mandaville, 'The Ottoman Court Records of Syria and Jordan,' *Journal of the American Oriental Society* 86 (1966): 311–19; 'Adel Mannā', "The Sijill as a Source for the Study of Palestine During the Ottoman Period, With Special Reference to the French Invasion," in *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation*, ed. David Kushner (Leiden: E. J. Brill, 1986); Abdul-Karim Rafeq, "The Law Court Records of Damascus, With Special Reference to Craft Corporations During the First Half of the Eighteenth Century," and André Raymond, "Les Documents du Mahkama comme Source pour l'Histoire Économique et Sociale de l'Égypte au XVIII^{e} Siècle," in *Les Arabes Par Leur Archives: XVI^{e}–XX^{e} Siècles*, eds. Jacques Berque et Dominique Chevallier (Paris: Éditions du Centre Nationale de la Recherche Scientifique, 1976), 125–59; James A. Reilly, 'Shari'a Court Registers and Land Tenure around Nineteenth-Century Damascus,' *Middle East Studies Association Bulletin* 21:2 (1987): 155–71; and Tarif Khalidi, ed., *Land Tenure and Social Transformation in the Middle East* (Beirut: American University of Beirut, 1984).

hampered by the bias of other available sources. A thorough survey of Western consular records and travelers' accounts reveals a singular disinterest in, and often antipathy to, the Muslim community of Jerusalem. This is unlike the situation with other cities such as Istanbul, Damascus, Cairo, and Aleppo, where Europeans could be found who were at least fascinated with, if not enchanted by, Muslim society. In Jerusalem, the situation was quite different. Christian and Jewish travelers alike, the majority of whom were unfamiliar with non-European cities and cultures, and who held romanticized ideals of Jerusalem, lamented the apparent ruin of the Holy Land by the 'infidel Turk.' Their comments were often general and overwhelmingly negative, filled with misconceptions and misinformation, and so unprofitable for this research. Even relatively unbiased observers had difficulties overcoming their distrust of the Muslims, given the straitened political and economic conditions of the time. The first British Consul in Jerusalem, William T. Young, instructed by his superior Lord Palmerston to "make it your business to cultivate a friendly feeling toward Great Britain amongst the inhabitants of the Country . . ." was unable to develop good relations with Muslims.[16] He wrote, "Hitherto I regret to say, that I have on every occasion been met by the local authorities, *in the most unconciliating and often the most vexatious spirit* [*sic*]."[17] He and his successor, James Finn, offer remarkably little detail on the individual personalities, traditions, institutions, and opinions of the Muslims living in the city. What little information is related describes conflicts and misunderstandings between the Western newcomers and the Muslims, or between local Christians and Jews and the Muslim authorities, information pointedly emphasizing misrule and the need for extending 'protection' to non-Muslims.

As for secondary sources concerning this period, many of the standard works on Palestinian history and society lack detailed information about the Muslim community of Jerusalem in the early nineteenth century. Studies such as those by Ma'oz and Migdal only touch lightly upon the Muslims of Jerusalem in the period before the Ottoman *Tanzimat* in 1841.[18] The plethora of recent works under-

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[16] Great Britain, Public Record Office, Foreign Office Series, (hereafter *FO*) 78/340 Pt. 1. Palmerston to Young (draft) 19 September 1838.

[17] *FO* 78/413 Young to Palmerston, Jerusalem, 30 June 1840.

[18] Moshe Ma'oz, *Ottoman Reform in Syria and Palestine 1840–1861* (Oxford: Clarendon

scores both the renewed interest in nineteenth-century Jerusalem and the acuteness of the need for a study balancing Muslim sources against Western travelers' accounts and consular reports.[19] Indeed, the same misconceptions first penned by badly informed nineteenth-century observers constantly reappear in modern writings on the Middle East. We have some sources that are notable exceptions to this bias: Edward Robinson showed sensitivity to and interest in the Muslim community, as did the American missionaries William Thomson and John F. Lanneau.[20]

Unfortunately we have no contemporary chronicles written about Jerusalem by a Muslim during this period, nor were there any journals or newspapers published in the region.[21] The availability of archival material in the Islamic Court of Jerusalem thus enabled me to make those records the backbone of my research.[22] This vast and stimulating corpus of evidence throws considerable light on the workings of the administration of the city and its institutions and the relationship of the city to imperial and regional centers of power.

Press, 1968); Amnon Cohen, *Palestine in the Eighteenth Century: Patterns of Government and Administration* (Jerusalem: Magnes Press, 1973), and Cohen, *Economic Life*; Joel Migdal, *Palestinian Society and Politics* (Princeton: Princeton University Press, 1980).

[19] Among recent works are A. Schölch, "The Emergence of Modern Palestine (1856–1882)," in *Studia Palestina, Studies in Honour of Constantine Zurayk*, ed. H. Nashabe (Beirut: Muʿassasat al-Dirasat al-Filastiniya, 1988), 69–82; Yehoshua Ben-Arieh, *Jerusalem in the Nineteenth Century: The Old City* (New York: St. Martin's Press, 1984); Martin Gilbert, *Jerusalem: Rebirth of a City* (New York: Viking Press, 1985); Arnold Blumberg, *Zion Before Zionism: 1838–1880* (Syracuse: Syracuse University Press, 1985); K. J. Asali, ed., *Jerusalem in History* (New York: Olive Branch Press, 1990); Donna Robinson Divine, *Politics and Society in Ottoman Palestine: The Arab Struggle for Survival and Power* (Boulder, CO: Lynne Rienner Publishers, 1994); Baruch Kimmerling and Joel S. Migdal, *Palestinians: The Making of a People* (New York: The Free Press, 1993).

[20] Edward Robinson, *Biblical Researches in Palestine, Mount Sinai, and Arabia Petraea* (London: John Murray, 1841), and dispatches published by Thomson and Lanneau in *The Missionary Herald* during the 1820s and 1830s.

[21] It would not be until after 1908 that Arabic newspapers would be published in Jerusalem—beginning with *al-Quds* and followed by the appearance of *Filasṭīn* in 1911. There was a gazette published in Turkish and Arabic, but it was not a true newspaper. See Neville J. Mandel, *The Arabs and Zionism Before World War I* (Berkeley: University of California Press, 1976), 81, 128–9. However, a contemporary Lebanese chronicle of the period of Muḥammad ʿAlī in Syria does exist: see below.

[22] The original registers are located at the Islamic Court in East Jerusalem. The University of Jordan's Documents and Manuscripts Center (*Markaz al-Wathaʾiq wʾal-Makhṭūṭāt*) houses a collection of facsimiles of the court records. This collection has been catalogued by Muḥammad Adnan Bakhit et al., in *Kashshāf iḥṣāʾī zamanī li-sijillāt al-maḥākim al-sharʿīya waʾl-awqāf al-islāmīya fī Bilād al-Shām* (Amman: University of Jordan, 1984). Facsimiles are housed at The Center for the Revitalization of

The publication of Abdul-Karim Rafeq's work on Ottoman Damascus, Gabriel Baer's work on Egypt and Palestine, and Amnon Cohen's work on the economic life of Ottoman Jerusalem spurred my interest in the Jerusalem court archives. Cohen's work was a landmark in the historiography of Palestine, since this was the first time that modern research methods were applied to the study of the Muslim community of Jerusalem. Under his direction, several students continue to work on different aspects of Ottoman Jerusalem using the Jerusalem court records, and those of other towns in Palestine.[23] Mannā', Butrus Abu-Manneh and others are organizing biographical information about Palestinians.[24] Beshara Doumani, Haim Gerber and Abu-Manneh have worked on the *Tanzimat* period that immediately followed the withdrawal of Muḥammad 'Alī until the end of Ottoman rule in Syria and Palestine.[25] Nevertheless, despite recent books and monographs on the Arab provinces of the Ottoman Empire in the past few years, the field still lacks an overarching analytical framework within which to study the political, economic and social

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Islamic Studies (*al-Markaz li-'hya' al-dirāsāt al-Islāmīya*) at Abu Dis, but are generally inaccessible. My thanks to the center's librarian, Fahmi Ansari, for sharing his grandfather's notebook of important Jerusalem court documents from the Muḥammad 'Alī period with me—these were used by Asad Rustum for his collection of documents—*Al-Uṣūl al-'arabiya li-tārikh Sūriyā fi-'ahd Muḥammad 'Alī*, 5 vols. (Beirut: American Press, 1930–1934) (hereafter *Uṣūl*). See also Khadr Salameh, "Aspects of the Sijills of the Shari'a Court in Jerusalem," in *Ottoman Jerusalem, The Living City*, eds. Sylvia Auld and Robert Hillenbrand (London: Altajjir World of Islam Trust, 2000). See Appendix A, "A Note on Transliterations" and Appendix C, "A Note on the Islamic Court Records as a Source."

[23] Cohen, *Palestine in the Eighteenth Century* and *Economic Life*.

[24] 'Adel Mannā', "The Sancak of Jerusalem Between Two Invasions (1798–1831): Administration and Society," (Ph.D. diss., Hebrew University of Jerusalem, 1986); Butrus Abu-Manneh, "The Ḥusaynīs: The Rise of a Notable Family in Eighteenth Century Palestine," in *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation*, ed. David Kushner (Leiden: E. J. Brill, 1986), 93–108, see 106 n. 8 which is based upon Ḥasan b. 'Abd al-Laṭīf al-Ḥusaynī, *Tarājim ahl al-Quds fi al-qarn al-thānī 'ashar*, ed. Ṣalāmah Ṣāleḥ al-Nu'aymat (Amman: al-Jami'a al-Urduniya, 1985); Karl Barbir, "Scholarship and Opportunity in Eighteenth Century Jerusalem: Hasan al-Qudsi's Notables," (paper presented to the third International Conference on the History of *Bilād al-Shām*, Amman, 1980). The Truman Institute at Hebrew University is directing the compilation of a Palestinian biographical dictionary, under the direction of Moshe Ma'oz and Alexander Bligh. See also 'Abd al-Razzāq Bayṭār, *Ḥilyāt al-Bashar fi tārikh al-qarn al-thālith 'ashar*, 3 vols. (Damascus: n.p. 1961–3) and 'Adel Mannā', *A'lam Filasṭīn fi awākhir al-'ahd al-'Uthmanī* (Jerusalem: n.p., 1986).

[25] Doumani, *Rediscovering Palestine*; Abu-Manneh, 'Jerusalem in the Tanzimat Period: The New Ottoman Administration and the Notables,' *Die Welt Des Islams* 30 (1990), 1–44.

institutions of the Muslim community of Jerusalem during the Ottoman period.[26] It was, in part, that need that this work is intended to meet.

The nature of the records helped shape the direction of my inquiries. The registers are organized in chronological order, and consist of a mixture of administrative orders and appointments, military bulletins, legal cases, real estate transactions, marriage, divorce, pension and guardianship documents, trusts and wills, legal opinions, commercial transactions, and the records of informal agreements made outside of the Islamic Court.[27]

The subjects of these documents are therefore always rooted in juridical issues, and so the matter under study is, loosely put, Islamic law. By this I mean simply that the legal codes governing political and judicial relations in Jerusalem were rooted in the principles of Islam. Although the *Sharīʿa* contains specific prohibitions and prescribes certain punishments, the registers of the Islamic Court in Jerusalem demonstrate that under the Ottomans these were interpreted in various ways, according to various schools of Islamic law, and that the corpus of law included many administrative laws rooted in custom and the Ottoman *Qānūn*.

Therefore, the documents used in this study enabled me to examine the specific application of Islamic law in a particular place and time. Islamic law under the Ottomans was different from Islamic law in such regions as Persia, India, Southeast Asia, Spain, Morocco, or under such regimes as the Umayyad, Abbasid, Ayyubid, Mamluk, Fatimid, or later the Wahhabi, in the Middle East. The Ottoman system of law was not expressed solely through the Islamic sacred law, the *Sharīʿa*, although it was deeply rooted in a unique interpretation of that law. Thus we are studying something different from and broader than simply the sacred law of Islam within the Holy City of Jerusalem. We are looking at the application of law by the

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[26] Dror Zeʿevi, *An Ottoman Century: The District of Jerusalem in the 1600s* (Albany: State University of New York Press, 1996); Amnon Cohen and Gabriel Baer, eds., *Egypt and Palestine: A Millennium of Association* (New York: St. Martin's Press, 1984); Haim Gerber, *Ottoman Rule in Jerusalem: 1890–1914*, Islamkundliche Untersuchungen, band 101 (Berlin: Klaus Schwartz Verlag, 1985); David Kushner, ed., *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation* (Leiden: E. J. Brill, 1986); Moshe Ma'oz, ed., *Studies on Palestine During the Ottoman Period* (Jerusalem: Magnes Press, 1975).

[27] For a detailed description of the Islamic Court records used in this study, see Appendix C, "Note on the Islamic Court Records as a Source."

Ottomans and by the Khedival regime as reflected in the archives of the Islamic Court in Jerusalem dating from the 1830s.

A comprehensive analysis of Ottoman history and its administration of the Arab provinces is the only way to identify and analyze the nature of authority, the sources of economic and political power, and the wielders of influence and coercive power in the city of Jerusalem in the early nineteenth century. Halil Inalcik has shown that without a clear understanding of the Ottoman land tenure system, no sense can be made of the political, social, and economic relationships characterizing a particular place at a particular time.[28] Ottoman land tenure was grounded in the legal traditions of the empire. This perspective drives my analysis, and it, rather than the nature of my sources alone, led me to conclude that the fundamental issue raised by Muḥammad ʿAlī was one of law.

Albert Hourani applied the fruits of Turkish historiography to the Arab Middle East by introducing the concept of the 'politics of notables' to provincial Arab history in a now famous essay.[29] This seminal idea has greatly influenced recent interpretations of Syrian politics in the past ten years.[30] I began this study by attempting to analyze

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[28] Halil Inalcik and Donald Quataert, *An Economic and Social History of the Ottoman Empire, 1300–1916* (Cambridge: Cambridge University Press, 1994); also Inalcik, "Tīmār," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

[29] Albert Hourani, *The Emergence of the Modern Middle East* (Berkeley: University of California Press, 1981), 1–66.

[30] For examples of such research, see Abraham Marcus, *The Middle East on the Eve of Modernity: Aleppo in the Eighteenth Century* (New York: Columbia University Press, 1989); Bruce Masters, *The Origins of Western Economic Dominance in the Middle East: Mercantilism and the Islamic Economy of Aleppo, 1600–1750* (New York: New York University Press, 1988); Masters, 'The 1850 Events in Aleppo: An Aftershock of Syria's Incorporation into the Capitalist World System,' *International Journal of Middle East Studies* 22 (1990): 3–20; Deena A. Sadat, 'Rumeli Ayanları: The Eighteenth Century,' *Journal of Modern History* 44 (1987): 346–63; Ruth Roded, 'The Syrian Urban Notables: Elite, Estates, Class?' *Asian and African Studies* 20 (1986): 376–84; Kenneth Cuno, "Egypt's Wealthy Peasantry, 1740–1820: A Study of the Region of al-Manṣura," in *Land Tenure and Social Transformation in the Middle East*, ed. Tarif Khalidi (Beirut: American University of Beirut, 1984); Linda Schatkowski Schilcher, *Families in Politics: Damascene Factions and Estates of the Eighteenth and Nineteenth Centuries* (Wiesbaden: Franz Sterner Verlag, 1985); Judith E. Tucker, *Women in Nineteenth-Century Egypt* (Cambridge: Cambridge University Press, 1985); Mannāʿ, "Sancak of Jerusalem"; Haim Gerber, 'Shari'a, Kanun, and Custom in the Ottoman Law: The Court Records of 17th Century Bursa,' *International Journal of Turkish Studies* 2 (1981): 131–47; Gerber, *Ottoman Rule*; Gerber, *The Social Origins of the Middle East* (Boulder, CO: Lynne Rienner, 1987); Amnon Cohen, *Jewish Life*, and Cohen, *The Guilds of Ottoman Jerusalem* (Leiden: E. J. Brill, 2001); Leila Tarazi Fawaz, *Merchants and Migrants*

the political role of different groups within the Muslim community of Jerusalem—especially the *ʿulamāʾ*, or religious authorities; the *umarāʾ*, the indigenous military authorities living in the area around Jerusalem; the *aʿyān*, or provincial notables originally not belonging to the official ruling classes of the Ottoman Empire; and artisans and traders. For the study of Jerusalem, however, the 'politics of notables' proved problematic, since the city lacked a group of urban notables who privately controlled significant agricultural or commercial resources during this period. Nor was there an urban class in the period under study that farmed taxes for the central government or who commanded private militias, as was the case in other parts of the Province of Damascus and elsewhere in the Ottoman Empire. This led to my reevaluation of the Muslim elite of Jerusalem, Muḥammad ʿAlī as a political figure, and, most importantly, the role of the imperial religious endowments in organizing the economy, society, and politics of the region.

My method, using the Islamic Court records as my principal source, necessitated the selection of a brief period of time since a close reading of the registers is a time consuming process.[31] I therefore focused on a particular decade, the decade that saw the opening of Jerusalem to Europe and the beginnings of Western penetration of the city. The 1830s was a remarkable decade because it was a singular chapter in the four-hundred-year history of Ottoman rule in the Arab provinces—indeed, it was the only time, until 1917, that the Ottomans lost military control over the city of Jerusalem and the Provinces of Sidon and Damascus. Thus, that nine-year period was of great importance because one Muslim government was usurped by another, and the thought of comparing the two systems of Muslim administration promised to yield analytical contrast.

The focus of the study, then, became the relationship of the Muslim community of Jerusalem with the Ottoman and then the Egyptian regime. In order to undertake that there were several analytical steps. The first was to establish Jerusalem's position within the Ottoman Empire. This necessitated consideration of the fundaments of Ottoman government, its provincial administration over time, and the specific

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in Nineteenth-Century Beirut (Cambridge: Harvard University Press, 1983); and Philip Khoury, *Urban Notables and Arab Nationalism: The Politics of Damascus, 1860–1920* (Cambridge: Harvard University Press, 1983).

[31] See Appendix C: "A Note on the Islamic Law Court Records as a Source."

history of the Provinces of Damascus and Sidon, both of which alternately controlled the administrative district of Jerusalem during the Ottoman period. Next, the motivations for the invasion of Syria by the Ottoman Governor-General of Egypt, Muḥammad ʿAlī, had to be considered, as this was essential for identifying and analyzing his policies in the occupied province. Jerusalem, then, could not be studied in isolation, but in the context of local, regional, imperial, and international systems. Only then could the documents found in the court records be understood and interpreted to analyze the administration of law and government in the city.

The 'Eastern Question,' posed by Muḥammad ʿAlī's invasion of Syria, is one of the most important topics in modern Middle Eastern history. Once having entered into the realm of the 'Eastern Question' I found, however, that it is as endless as its bibliography. The simple question: who was Muḥammad ʿAlī? continues to be the subject of profound and heated debate.[32] L. Carl Brown characterized the Middle East as a "penetrated political system" existing "in continuous confrontation with a dominant outside political system." In his study of the 'Eastern Question' Brown focused on the diplomatic interplay between the Ottoman and Western systems to explain the international relations of the nineteenth century in order to lay a foundation to analyze the politics of the modern Middle East. Brown's work is premised on the theory that the politics of any political system cannot be understood without reference to the outside system. At the same time, Brown asserted that the lands of the Ottoman Empire must be understood not only from the perspective of "outsiders' interests," but with the recognition that the Middle East has an "indigenous standard" from "having shared for centuries a common political structure."[33]

These principles are particularly important when one turns to the local politics of Syria. The city of Jerusalem had its particular history and institutions. The Ottoman and Khedival systems were 'outside systems' in which the people of Jerusalem participated, but which did not diminish the unique social, economic, or political totality of

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[32] M. S. Anderson, *The 'Eastern Question': 1774–1923: A Study in International Relations* (London: Macmillan, 1966) and Ehud Toledano, "Muḥammad ʿAli Pasha," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

[33] L. Carl Brown, *International Politics and the Middle East: Old Rules, Dangerous Game* (Princeton: Princeton University Press, 1984), 5–8.

the city. This discrete local political culture will be placed within the context of the interplay of three dynamic systems—Ottoman, Egyptian, and European. Jerusalem in the 1830s was undergoing enormous pressures resulting from military occupation, political reorganization, juridical upheaval, cultural conflict and socioeconomic turmoil, not to mention the curses of cholera and earthquakes.[34]

At the center of this study stands the rebellion of Jerusalem against Muḥammad ʿAlī's regime in 1834, the fulcrum of our analysis. After the uprising was crushed, the administration of the city's institutions—the law court, the trusts, schools, hospices, soup kitchens—continued to run under the authority of the Ottoman-appointed chief judge in the Islamic Court. By studying the records kept in the court in order to follow the administration of law and order in the city during the Egyptian occupation, it has been possible to move from an abstract characterization of government to a consideration of the concrete application, administration, and manipulation of law under Muḥammad ʿAlī. I have used the collections of Asad J. Rustum to supplement the cases which I have drawn from the Jerusalem *sijillāt*.[35]

Historiography and the Issue of the 'Modern' Middle East

The concept of modernization has led to heated controversy, teamed as it often is with that of the 'decline' of the Ottoman Empire. Implicit in both concepts is the problem of change, and the tendency to conceive of non-Western societies as static abstractions. In actuality, all societies are perpetually dynamic, transformed by external and internal conditions—political, economic, technological, intellectual, religious, and cultural.

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[34] Ruth Kark and Michal Oren-Nordheim, *Jerusalem and its Environs: Quarters, Neighborhoods, Villages, 1800–1948* (Jerusalem: Magnes Press, 2001).

[35] Asad Jibrail Rustum, *Al-Maḥfuẓāt al-Malikīya al-Miṣrīya* (Beirut: American University Press, 1940–1942) (hereafter *Maḥfuẓāt*), and Rustum, *Uṣūl*. There are a large number of errors in the reading, editing, and pagination of the documents in these collections, but taken in their entirety, Rustum's efforts at collecting a corpus of documents for the social, political, and economic history of Syria has remained a laudable and rare example of serious attention to doing the basic work of organizing the material essential to all further documentary research. We need much more of this kind of work before we can ever effectively, economically, and reasonably conduct archival research.

Muḥammad ʿAlī is often credited with initiating the modernization of Syria, and for that reason this period has received much scholarly attention. Moshe Ma'oz has led a generation of scholars in seeing the years 1840–1860 as the beginning of the modern period of Palestinian history, and as a transitional period "with some of its roots in the short period of Egyptian rule during the 1830s" which "brought about an end to centuries of confusion and backwardness and opened a new age of stability and modernization. During these years local forces were destroyed, regional autonomies undermined, and a solid foundation of Ottoman direct rule was established."[36]

However, the processes of imperial consolidation, provincial control, and administrative decision-making were undergoing continual transformation throughout the empire, beginning as early as the sixteenth century.[37] These processes were nothing new. Muḥammad ʿAlī fit into the pattern of provincial notables, *aʿyān*, who rallied local militias behind them in order to carve out autonomous areas for their own benefit. This study fundamentally disputes the notion that the international context and personal motivations were not sufficient causes for Muḥammad ʿAlī's foreign campaigns.[38]

In a provocative essay Shimon Shamir proposed that it was during the period of Egyptian rule that the 'Modern History' of Palestine began.[39] Within the broad outlines of Palestinian history, Shamir identifies a number of policies adopted by the commander of Muḥammad ʿAlī's armies and governor of his Syrian territories—which included Palestine and the administrative district of Jerusalem—his son, Ibrāhīm Pasha. These policies characterize 'modernization' in the Middle

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[36] Ma'oz, *Studies on Palestine*, v–vi. Khaled Fahmy's *All the Pasha's Men: Mehmed Ali, his Army, and the Making of Modern Egypt* (Cambridge: Cambridge University Press, 1997) carefully treats Muḥammad ʿAlī (Mehmed Ali) not as the 'founder of Modern Egypt' but instead challenges the powerful nationalist discourse in Egyptian and European historiography by focusing upon the armies and their training under his regime as a way to understand the introduction of modernity in Egypt.

[37] Barkey, *Bandits and Bureaucrats*.

[38] Fred Lawson, *The Social Origins of Egyptian Expansionism During the Muhammad 'Ali Period* (New York: Columbia University Press, 1992).

[39] Shimon Shamir, "Egyptian Rule (1832–1840) and the Beginning of the Modern History of Palestine," in Amnon Cohen and Gabriel Baer, eds., *Egypt and Palestine: A Millennium of Association* (New York: St. Martin's Press, 1984), 214–31. Butrus Abu-Manneh thought that instead, Jerusalem's elevation to capital of the southern Syrian *sanjaqs* of Nablus, Gaza, and Jaffa in 1841 with the restoration of Ottoman rule could mark the beginning of the "modern history of Palestine." Abu-Manneh, 'Tanzimat Period,' 9.

East, according to Shamir: the systematic attempt to integrate local elites into a centralized government; to separate civilian and military authority; to establish a stable regional subdivision under a centralized provincial governor; to recruit local people into the regional government; to supervise the integrity and efficiency of its functionaries; to frame a policy for the region as a "territorial *state*" [*sic*]; to establish representative assemblies; to improve the status of Christians and Jews; to increase population in towns and villages; and finally, to benefit from European expertise in the improvement of sanitation, transportation, communications, education, agricultural, industrial, and commercial relations.[40]

These policies led to what Shamir termed the 'opening of Palestine' (referring to William R. Polk's work on this issue concerning Lebanon).[41] Shamir concluded that "[i]n some ways, then, the Egyptian invasion is comparable to the expeditions of Napoleon to Egypt and Perry to Japan, for it opened the area to foreign, modernizing and disrupting influence on a scale not known before."[42] Certainly the ever increasing influence and presence of Westerners in Palestine during this period contributed to the transformation of the social and political makeup of the area, but it must be emphasized here that these factors were only one dimension of the process. There were local, regional, and international pressures on the status quo of the early nineteenth century. Political struggles between local commanders and their followers in the Nablus region, struggles that were amplified as the different factions jockeyed for support from the region's provincial governors-general, led to ongoing skirmishes in the region of Jerusalem through the 1820s. Napoleon's invasion of Egypt and Syria, and the French occupation of Egypt, reminded everyone of the international

[40] Shamir, "Egyptian Rule," 219–29. For a more general treatment of this topic, see Immanuel Wallerstein, *The Modern World-System* (San Diego: Academic Press, 1989); Roger Owen, *The Middle East and the World Economy 1800–1914* (London: Methuen, 1981); William R. Polk and Richard Chambers, eds., *Beginnings of Modernization in the Middle East: The Nineteenth Century* (Chicago: University of Chicago Press, 1968); Michael C. Hudson, *Arab Politics: The Search for Legitimacy* (New Haven: Yale University Press, 1977); Huri Islamoğlu-Inan, ed., *The Ottoman Empire and the World-Economy* (Cambridge: Cambridge University Press, 1987); Reşat Kasaba, *The Ottoman Empire and the World Economy: The Nineteenth Century* (Albany: State University of New York Press, 1988); Samir Amin, *The Arab Nation* (London: Zed Press, 1978).

[41] William R. Polk, *The Opening of South Lebanon, 1788–1840: A Study of the Impact of the West on the Middle East* (Cambridge: Harvard University Press, 1963).

[42] Shamir, "Egyptian Rule," xix.

significance of Jerusalem and Syria. Provincial militias challenged the command structures of the Ottoman state led by provincial governors-general who rivaled one another in their contests for wealth and power. Illegal and excessive taxes led to disturbances in villages and the failure of the state to pay its clients led to the emergence of banditry by both village-based elites and nomadic tribes. In the 1820s, Ottoman control of Syria seemed tenuous at best. The imposition of Khedival control in Palestine irreversibly changed the nature of local politics in Jerusalem and the Ottoman province of *Bilād al-Shām*. Following the withdrawal of the Khedival armies from Syria, the Ottomans no longer had difficulties with the urban notables because Muḥammad ʿAlī had transformed their role and position in society so completely.

To understand Muslim Jerusalem, I have combined socioeconomic interpretation with narrative history and political analysis. While local history is vital to understanding a certain place and time, it is the larger context of international history that informs and delineates local conditions. By interweaving structural, international factors with personal and local socioeconomic ones I offer a nuanced interpretation of this important period. By combining narrative methods with the newer forms of socioeconomic analysis, I have also tried to show that both traditions express important historiographical strategies.

I have analyzed the relationship of the Ottoman government of Istanbul, the Porte, to the local elites in and around Jerusalem: the *ʿulamāʾ*, or legal experts; the *ashrāf*, or descendants of the Prophet Muḥammad who together composed the *afandiyāt*, or urban elite of Jerusalem; and the *umarāʾ* (sometimes referred to as the *aghawāt*) or local Ottoman military commanders based in and around Nablus who led the various rural political factions. In addition, I also track the relations of the taxpaying subjects of the Porte, the *raʿāyā* (Turkish *reʿayā*), living in the villages around Jerusalem, as well as clans and tribes who were required by law to provide services to the Porte in return for tax exemptions and salaries. By relating these groups to their economic and social roles within the empire, we can present a detailed picture of the political and socioeconomic systems in Jerusalem on the eve of the great changes that were to shake the traditions of Sunni Muslim life in Palestine.

The picture that emerges from this study will show that Jerusalem was not an insular city, neglected and unimportant to the Ottoman government. Rather, the city was deeply enmeshed with its rural

hinterlands and it reflected and participated in the changes occurring constantly within the provincial administrations of the Provinces of Sidon and Damascus, in the Ottoman Empire itself and within the international system. Thus, this study is more than an urban history of Jerusalem or a political narrative of Syrian history. It is an analysis of the nature of Ottoman and Khedival law, a reexamination of Muḥammad ʿAlī as political actor, and a reinterpretation of the socioeconomic order of Muslim society in Jerusalem.

Map 1. Eurasia, 1831

CHAPTER TWO

JERUSALEM, THE *SHARĪʿA*, AND THE FUNDAMENTS OF OTTOMAN PROVINCIAL GOVERNMENT

The City of Jerusalem

The city of Jerusalem in the early nineteenth century was small and hardly a center of cosmopolitan life like the great cities of the Ottoman Empire. With a population of less than ten thousand it was dwarfed by Aleppo, which had a population of 100,000 people, Cairo with over 200,000, and Istanbul with approximately 450,000. Jerusalem was comparable to Athens, which also had about 10,000 inhabitants and, despite a glorious past, was a rather neglected city in the backwaters of the empire.

To the Muslim, Jerusalem is *Thālith al-Ḥaramayn*, the Third of the Two Holy Cities—after Mecca and Medina—the first *qibla*, or orientation for prayer, and the site of the *al-Aqṣā* Mosque where the Prophet Muḥammad arrived in the dream journey known as the *Miʿrāj*.[1] Upon the Umayyad conquest of the city, the Muslims built the *Qubbat al-Ṣakhra*, the Dome of the Rock, a commemoration-place, or *mashhad*, over the place where according to one legend *Burāq*, the winged animal Muslims believe to have brought Muḥammad to Jerusalem, left his hoofprint in the stone as they ascended to heaven. Another legend has it that he was tethered near the Western Wall. The domed building was built on top of the platform upon which Herod had rebuilt the Second Temple, and was decorated with great skill and shrewdness to demonstrate the superiority of Islam over Christianity.[2] *Al-Aqṣā*, the Friday mosque which is the primary Muslim

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[1] Angelika Neuwirth, "Jerusalem in Islam: The Three Honorific Names of the City," in *Ottoman Jerusalem, The Living City: 1517–1917*, eds. Sylvia Auld and Robert Hillenbrand (London: Altajjir World of Islam Trust, 2000), 78. The triple name of the city, called the *epitheton* dating to the Ayyubid period is: *Ūlā al-Qiblatayn*, the first of the two directions of prayer; *Thāni al-Masjidayn*, second of the two sanctuaries, and *Thālith al-Ḥaramayn*, third after the two places of pilgrimage.

[2] Oleg Grabar, *The Formation of Islamic Art* (New Haven: Yale University Press, 1973), 49–67 and Meir Ben-Dov, *Jerusalem: Man and Stone: an Archeologist's Personal*

site for worship in Jerusalem, has in addition to the *miḥrāb*, the niche indicating the direction of Mecca and Medina, and thus the direction of prayer and prostration, a *minbar*, or 'pulpit' where the Friday sermon (*khuṭba*) is preached in the name of the sovereign, thus the place where piety and policy are addressed. These two buildings became the very symbol of Jerusalem, which was called *Madīnat al-Quds al-Sharīf al-Maḥrūsa* (or *maḥmiya*), the protected, noble Holy City. The former Temple enclosure they called *al-Ḥaram al-Sharīf*—'The Noble Sanctuary.'

Until the last half of the nineteenth century, the walled city of Jerusalem was contained within the ramparts that the Ottomans had rebuilt and refortified during the years 1532–1539.[3] The Holy City is draped over the hills encompassed by these walls, segmented by the main streets which follow the valleys providing the natural divisions of the city—the Tyropoeon Valley, known by the Arabs as *al-Wād* Street, dividing the city into east and west, stretching from Damascus Gate to Dung Gate, and the Transversal Valley dividing the western sector of the city into north and south. Surrounding the walled city are the deep Hinnom and Kidron valleys to the southeast and southwest, with the Mount of Olives rising to the east. Scattered beyond

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View of His City (Tel Aviv: Modan Publishers, 1990). Recently the Palestinian Authority has been denying that the Temple was located on the *Ḥaram*, contradicting materials published by the Islamic Waqf of Jerusalem in the 1930s which recognize this historical fact. Supreme Moslem Council, *A Brief Guide to al-Ḥaram al-Sharīf* (Jerusalem: Moslem Orphanage Press, 1935).

[3] Basic sources for this section include: Robinson, *Biblical Researches*; Dan Bahat, *Carta's Historical Atlas of Jerusalem: An Illustrated Survey* (Jerusalem: Carta, 1983); Yehoshua Ben-Arieh, *Jerusalem in the Nineteenth Century: The Old City* (New York: St. Martin's Press, 1984); and Isḥaq Mūsā al-Ḥusaynī, *Al-abnīya al-atharīya fīl-Quds al-Islāmiya* (Jerusalem: Dār al-Aytām al-Islāmiya, 1977). Ben Arieh's book must be used with considerable caution in relation to Muslim institutions and buildings since he often repeats misinformation contained in the Western accounts which are his sources: for example, see 160–1 on the *Takīya* which he misidentifies and confuses with other earlier buildings. Nevertheless, this is an important resource compiling information from a good selection of Western observations of Jerusalem. The book's great weakness is the lack of information drawn from Arabic and Ottoman sources. See also: Auld and Hillenbrand, *The Living City*; M. Burgoyne and D. S. Richards, *Mamluk Jerusalem: An Architectural Study* (London: World of Islam Festival Trust, 1987); Mujīr al-Dīn al-Ḥanbalī, *Al-Uns al-Jalīl bi-Tārīkh al-Quds w'al-Khalīl* (reprint, Amman: Dar al-Jil, 1974). See Muḥammad As'ad al-Imām al-Ḥusaynī, *Al Manhal al-Ṣāfī fi'l-Waqf w-Aḥkāma* (Jerusalem: The National Press, 1982) (hereafter *Manhal*) for documents and analysis regarding government and *awqāf* in Jerusalem during the Ottoman and later periods. The introduction to Amnon Cohen's *Economic Life*, 1–10, is an excellent but brief introduction to the establishment of Ottoman rule in the city of Jerusalem.

the walls of the city were the small agricultural villages and towns which provided Jerusalem with its produce and livestock during the Ottoman period.

Within the walls, buildings and streets dating from each period of the city's long history defined its physical contours. Constructed from the local limestone which gave the city its golden hue, structures dating from the Second Temple Period (538 B.C.–A.D. 70) through the Roman, Byzantine, Umayyad, Abbasid, Crusader, Fatimid, Ayyubid, Mamluk, and Ottoman periods combine styles and designs that, blended together, lent the Old City its eclectic Islamic architectural character.

The Ottomans undertook major reconstruction projects during the sixteenth century that considerably revitalized the Muslim community. The seven ancient gates of the city were rebuilt and fortified between 1537 and 1541.[4] Of these gates, only the first four were in use during Robinson's stay in the city in 1838. The Dung Gate was closed after the peasant revolt of 1834 for security reasons, and Herod's Gate had been closed recently as well. At night, the remaining four gates were closed and locked, and could not be opened until dawn. During the frequent outbreaks of cholera, the residents of the city would flee and camp outside the walls, taking their chances with raiding bedouin.

In 1532 the Ottomans repaired the aqueduct leading from Solomon's Pools to the city, and between 1536 and 1537 built six public fountains—*Sabīl Birkat al-Sulṭān*, the Fountain of the Sultan's Pool; *Sabīl Ṭarīq al-Wād*, the Fountain of *al-Wād* Street; *Sabīl Bāb al-Silsila*, the Fountain of the Gate of the Chain; *Sabīl Bāb al-ʿAytām*, the Fountain of the Gate of the Orphans; *Sabīl Bāb al-Nāẓir*, the Fountain of the Gate of the Custodian; and *Sabīl Sittī Maryam*, the Fountain of the

[4] Known in Arabic as *Bāb al-Khalīl* or 'Hebron Gate' (now Jaffa Gate); *Bāb al-ʿAmūd*, 'The Gate of the Pillar' (Damascus Gate); *Bāb Sittī Maryam*, 'The Gate of Lady Mary' (St. Stephen's or Lion's Gate); *Bāb al-Nabī Dāūd*, 'The Gate of King David' (Zion Gate); *Bāb al-Ẓahra*, 'The Flower Gate' (Herod's Gate); *Bāb al-Maghāriba*, or 'The Gate of North Africans' (called after the adjacent quarter inhabited by Maghribis, or North Africans, today known as Dung Gate); and *Bāb al-Dahrīya*, 'The Gate of Eternity' (also called the Golden Gate or *Bāb al-Raḥma*, 'The Gate of Mercy') which had been blocked up since the Mamluk period, allegedly to prevent the return of the Christians' messiah, for which purpose a cemetery was placed in front of it, with the knowledge that a member of the Jewish priestly class cannot step on graves.

Lady Mary—to solve the problem of supplying water to the city's residents. These lavishly decorated fountains were dedicated as untransferable charitable trusts (*awqāf*, singular *waqf*) and were used by all of the city's inhabitants. Clustered around the north and northwest of *al-Ḥaram al-Sharīf* stood the mosques, hospices (*khānqāh*s), schools (*madrasa*s), baths, markets, inns and residences built primarily by the Mamluks and Ottomans and maintained as charitable trusts throughout the Ottoman period. Major government buildings, including the Governor's Palace, the *sarāy* (now the *ʿUmariya* school), the Islamic Court (the *Maḥkama*) and the *Majlis*—which were located in the building called the *Tankiziya* near the Gate of the Chain—barracks, and prison overlooked the *Ḥaram al-Sharīf*. A major soup kitchen and hospice (*Takīya al-ʿImāra*), administered by the *Khaṣṣekī Sulṭān Waqf*, which had been dedicated to the people of Jerusalem by Roxelana, the wife of Sulaymān the Magnificent, in 1552 became the center of charitable activities for the city's poor, Muslim and non-Muslim.[5] The *waqf* was supported by revenues and produce from throughout and beyond *Bilād al-Shām*, from as far away as Tripoli and Istanbul.[6] Combined, these Muslim institutions centered around the mosques, schools, hospices, fountains, and the large building housing the *Takīya* formed the nucleus of Ottoman Jerusalem.[7]

This built environment was the arena in which the Ottomans expressed their sovereignty and their custodianship of the holy places. By providing and supporting these endowed properties to serve the population of Jerusalem and by maintaining a military presence in the city, the Porte built relationships with local Muslims who served to protect and administer them. The Ottomans adopted the legal and institutional systems of the city as they found them, and over

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[5] Robinson, *Biblical Researches*, 386–8, 391.

[6] Amy Singer, *Constructing Ottoman Beneficence: An Imperial Soup Kitchen in Jerusalem* (Albany: State University of New York Press, 2002); Oded Peri, 'Avodot Tziburiot bi-Yerushalayim ve-Hevron bi-Sof HaMeah-18' ['Public Works in Jerusalem and Hebron at the End of the Eighteenth Century'], *Cathedra* 37 (1985): 17–32 (in Hebrew). See St. H. Stephan, 'An Endowment Deed of Khasseki Sultan, Date the 24th May 1552,' *The Quarterly of the Department of Antiquities, Palestine* 10 (1944): 170–94. In the Israel State Archives, a document lists the villages belonging to the *Khaṣṣekī Sulṭān Waqf*. Israel State Archives, Khaski [*sic*] Sultan, Minute Paper 17/2/32, 65, and No. 6425 Waqf/1/1 from Mohd Amin [*sic*], Muh Amin al-Ḥusaynī, President of Supreme Muslim Council 12 Aug 1931 to Chief Secretary Government Offices, Jerusalem.

[7] al-Ḥusaynī, *Manhal*, 78–104.

the centuries succeeded in coopting the Muslim community into their own political and legal bodies. Local Muslims, as Ottoman officials, also represented their particular local interests in the government. It was this mutual service that characterized the relationship between the Muslim community of Jerusalem and the Porte.

Unlike other important towns built or conquered by the Ottomans, Jerusalem lacked the one major central covered market (Turkish '*bedestan*') that characterized their commercial areas.[8] Nevertheless, the covered markets radiating out from the *Ḥaram* area together functioned as the commercial arteries of the city. These markets were *Sūq al-Dabbagha* (Market of the Tanners); *Sūq al-Laḥḥamīn* (Market of the Butchers); *Sūq al-ʿAṭṭārīn* (Market of the Spice Sellers); and *Sūq al-Qaṭṭānīn* (Market of the Cotton Merchants). In addition to these was the *Maristān* (also *Bimaristan*), originally the site of the Crusader Knights of the Hospitallers' hospice and dedicated as a *waqf* by Ṣalaḥ al-Dīn as a Muslim hospice and hospital after the reconquest of the city in A.D. 1187. Although in a state of dilapidation it was the center for textile production and dyeing in the city.[9] Agricultural produce and manufactured stuffs from the city's hinterlands and beyond were traded here, just one indication of the fact that the rural economy was linked inextricably to the urban, and that urban authority reached far into the countryside.

These public spaces were crowded in by the walled lanes and houses of the residential areas of the city: the Armenian in the southwest, the Jewish in the southeast, the Christian (Greek Orthodox, Coptic, Latin) in the northwest, and the Muslim, which spread over the eastern and central quadrants of the city. E. Robinson, an American biblical archaeologist who lived and worked in Jerusalem in 1838, described the residential neighborhoods of the city.

> [O]n entering the gates of Jerusalem . . . I was agreeably disappointed. From the descriptions of Chateaubriand and other travellers, I had expected to find the houses of the city miserable, the streets filthy, and the population squalid. Yet the first impression made upon my mind was of a different character, nor did I afterwards see any reason to doubt the correctness of this first impression. The houses are in general better built, and the streets cleaner, than those of Alexandria,

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[8] Halil Inalcik, 'The Hub of the City: The Bedestan of Istanbul,' *International Journal of Turkish Studies* 1/1 (1979/1980): 1–17 and Amnon Cohen, *Guilds*.

[9] C. Warren, *Underground Jerusalem* (London: n.p., 1876), 500–9.

> Smyrna, or even Constantinople. Indeed, of all the oriental cities which it was my lot to visit, Jerusalem, after Cairo, is the cleanest and most solidly built. The streets indeed are narrow, and very rudely paved, like those of all cities in the East. The houses are of hewn stone, often large, and furnished with the small domes upon the roofs. . . . These domes seem to be not merely for ornament, but are intended, on account of the scarcity of timber, to aid in supporting and strengthening the otherwise flat roofs. There is usually one or more over each room in a house, and they also give a greater elevation and an architectural effect to the ceiling of the room, which rises within them. The streets, and the population that throngs them, may also well bear the comparison with those of any other oriental city; although if one seeks here, or elsewhere in the East for . . . general cleanliness and thrift . . . he will of course seek in vain. . . . [The principal streets] are narrow and badly paved, being merely laid irregularly with large stones, with a deep square channel in the middle; but the steepness of the ground contributes to keep them cleaner than in most oriental cities.[10]

Even today it is possible to picture the city in the 1830s, based in part on travelers' descriptions and on the current conditions of the city. Behind the walls and enclosures dividing public spaces from the private, one can imagine livestock and fruit trees in the courtyards of the homes and children running into the alleys, chasing stray animals and jumping over rubbish lying in their path. Inside the blank walls facing the street, women prepared food in the courtyards, and the general chatter of children and women blended with the deeper voices of the men as they met in church, mosque, synagogue, bath, and coffeehouse. In the markets, peasants from nearby villages sat on the ground with piles of produce in front of them, beckoning shoppers with good prices and fresh vegetables and fruit. Occasionally a donkey, camel, horse, or sheep would come clattering down the narrow cobblestone lanes, pushing people and their goods out of the

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[10] Robinson, *Biblical Researches*, 328–9, 394. Other, less complimentary descriptions of the city have often been cited to reinforce the impression of 'Turkish neglect,' but these descriptions were typically written by travelers who had little familiarity with urban areas in the Middle East. Robinson, with his eye for architecture and his knowledge of the Levant, is an exceptionally dependable source for information on Jerusalem. Nevertheless, he couldn't resist writing: "The glory of Jerusalem is indeed departed. From her ancient estate as the splendid metropolis of the Jewish commonwealth and of the whole Christian world, the beloved of nations and 'the joy of the whole earth,' she has sunk into the neglected capital of a petty Turkish province. . . . The cup of wrath and desolation from the Almighty has been poured out upon her to the dregs; and she sits sad and solitary in darkness and dust." *Ibid.*, II:81.

way. In times of cholera epidemics, all the color of this scene would fade away, as anxious people shut themselves up in their houses or fled the city to wait for the death to pass. This was Jerusalem until Muḥammad ʿAlī invaded *Bilād al-Shām*.

Jerusalem under the Ottomans: The Muqāṭaʿa *Land Regime*

Ottoman government was tied intimately to its system of land tenure, the *muqāṭaʿa* system. When the Ottoman Sultan Selim I added the vast territories of Egypt and Syria to his empire in 1517, he annexed them as three enormous provinces: ʿAlāʾ al-Dawla, ʿArab, and Diyar Bakr.[11] Sulaymān the Magnificent reorganized the 'Province of the Arabs,' which included the southwest Asian territories now defined by the countries of Syria, Lebanon, Jordan, Israel, Egypt, and the western part of Saudi Arabia (the Hijaz), into four smaller provinces: Aleppo, Damascus (*Shām*), Sidon, and Egypt.[12]

The sources of economic and political power held by the governing classes of the Ottoman Empire all flowed from the Imperial system of land tenure.[13] This, the *muqāṭaʿa* system, was an interpre-

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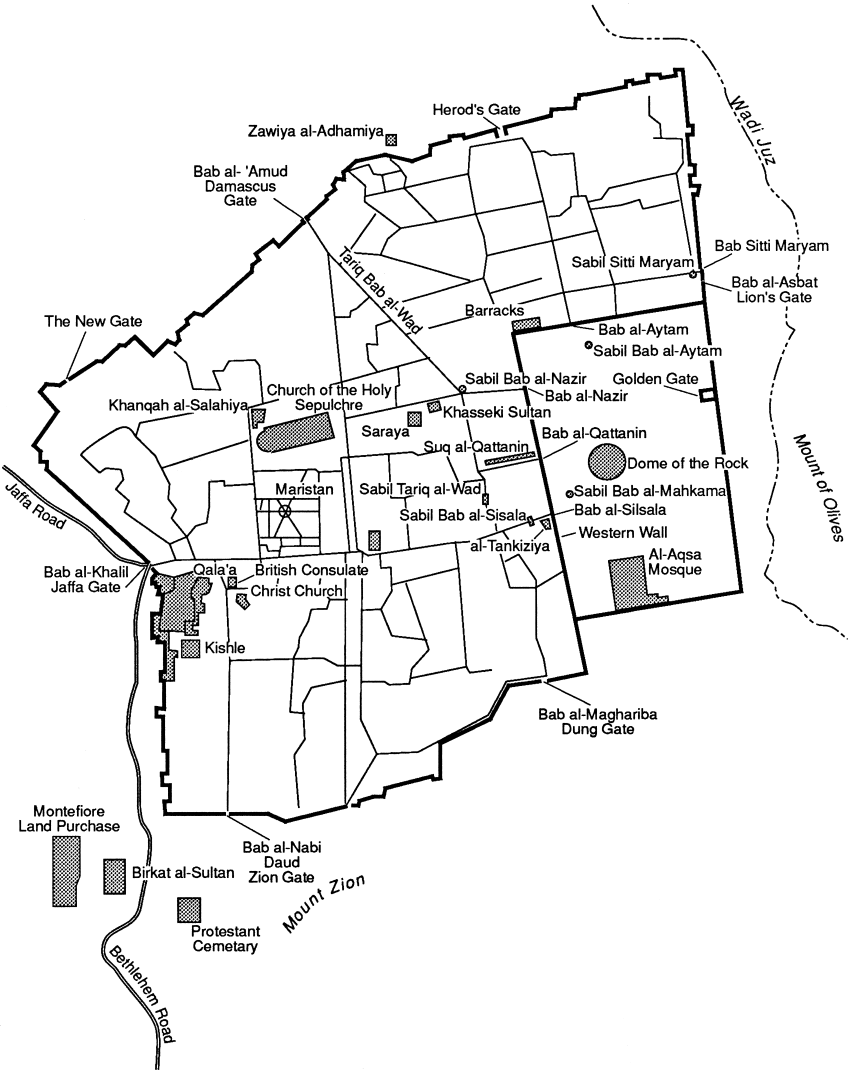
[11] See Kenneth M. Cuno, 'Was the Land of Ottoman Syria *Miri* or *Milk*? An Examination of Juridical Differences Within the Hanafi School,' *Studia Islamica* 1995/1: 121–52 for an excellent survey tracing Muslim legal arguments concerning the nature of landholding; and Halil Inalcik, "Eyālet," and "Tīmār," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill), and Inalcik, *An Economic and Social History of the Ottoman Empire 1300–1600* (Cambridge: Cambridge University Press, 1994), 103–78. See also Ariel Salzmann, 'An Ancien Regime Revisited: Privatization and Political Economy in the Eighteenth-century Ottoman Empire,' *Politics and Society* 21 (1993): 393–423; Salzmann, "Measures of Empire," (Ph.D. diss., Columbia University, 1995); Islamoğlu-Inan, Huri, ed., *The Ottoman Empire and the World-Economy* (Cambridge: Cambridge University Press, 1987); and Islamoğlu-Inan, *State and Peasant in the Ottoman Empire: Agrarian Power Relations and Regional Economic Development in Ottoman Anatolia During the Sixteenth Century* (Leiden: E. J. Brill, 1994).

[12] Robert Mantran and Jean Sauvaget, *Règlements Fiscaux Ottomans, les Provinces Syriennes* (Beyrouth: n.p., 1951). For the history of Ottoman Syria, see: Karl Barbir, *Ottoman Rule in the Province of Damascus, 1708–1758* (Princeton: Princeton University Press, 1980); P. M. Holt, *Egypt and the Fertile Crescent, 1516–1922: A Political History* (Ithaca, NY: Cornell University Press, 1966), especially 102–11, 124–33; Amnon Cohen, *Palestine in the Eighteenth Century*; Mannāʿ, "Sancak of Jerusalem," and Abdul-Karim Rafeq, *The Province of Damascus 1723–1783* (Beirut: Khayats, 1970). See also Inalcik, 'Tax Collection, Embezzlement, and Bribery in Ottoman Finances,' *Bulletin of the Turkish Studies Association* (1992): 328–46.

[13] Inalcik, *The Ottoman Empire; The Classical Age, 1300–1600* (London: Weidenfeld and Nicolson, 1973), 104–20.



Map 2. The city of Jerusalem in 1831–1841.

tation of Islamic law particular to the Ottomans, and its significance as an application of Islamic law to a functioning society is what makes our understanding of it crucial. It underlay the political administration of the provinces of the Ottoman Empire, as well as the socioeconomic life of their inhabitants, and thus provided the framework within which the Sultan could determine his policies and ground his decisions.

Under the *muqāṭaʿa* system, the Ottomans organized the subsidiary systems administering religious trusts (*awqāf*), military land grants (*tīmār*), tax-farms (*iltizām* and in the seventeenth and eighteenth centuries, *mālikāne* and *çiftlik* estates), as well as the mode of government and law, the administration of the crafts, trade, and all other forms of production, property and commerce.[14]

The *muqāṭaʿa* system was designed to prevent the permanent alienation of land from the state, with one single exception: the assignment of land by the Sultan to an individual as private property (*milk*). This property, however, would revert ultimately to the state upon the death of the owner and his descendants. To avoid this, some property bestowed as *milk* was subsequently endowed as Imperial foundations by members of the Imperial household, and so was not recovered by the state.

Under the *muqāṭaʿa* regime, land could be disposed of in three ways: it could be assigned as a grant in return for military service as *tīmār*; it could be leased directly to cultivators; or it could be held in perpetual trust for the Muslim subjects of the empire as *waqf*, or mortmain property. The *mīrī* or Imperial lands, and the evolution of their administration under the Ottomans throughout the eighteenth and nineteenth centuries, are discussed in the next section. First, the importance of the Islamic institution of religious endowments and their place in the *muqāṭaʿa* land system requires consideration, since many of the agricultural lands in southern Syria not assigned as *tīmār*, or later as *mālikāne* estates, were administered in support of Imperial *awqāf*.[15] Moreover, many parcels were divided into fractions, some of which were assigned as *tīmār* and some of which were assigned as *waqf*.[16]

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[14] Unlike the other forms of tenure, only once is mention made of a *çiftlik* estate in the court registers under study. That estate was not located in Jerusalem or *Bilād al-Shām*, but in Salonika. The document records the results of an investigation of the property on behalf of the chief *qāḍī* of Jerusalem whose son was purchasing the property in March 1834 on behalf of the *qāḍī*'s two wives. The estate, which consisted of livestock, grain, tools, a large house, and 2,400 *dönüm* of land, was valued at 500,000 *qurūsh* and was affirmed as *milk* property after it had been purchased in accordance with the *Sharīʿa*. The son and the two women, along with another male, witnessed the transaction. *LCRJ* 319, 88. Dated beginning of *Dhū-l-Ḥijja* 1250/30 March 1834. '*Çiftlik*' and '*mālikāne*' are both Turkish words.

[15] See Çaglar Keyder and Faruk Tabak, *Landholding and Commercial Agriculture in the Middle East* (Albany: State University of New York Press, 1991).

[16] Hütteroth and Abdulfattah, *Historical Geography*, 111–42 and Map 2.

Waqf *Lands*

Jerusalem, governed within the framework of Ottoman provincial administration, derived its status, too, from the *muqāṭaʿa* system. The problem of extrapolating the legal disposition of the land from the political structures of administration is a complex and difficult undertaking that has been left untouched in the literature covering the history of Jerusalem.[17] During the period of Sultan Maḥmūd II's reforms and probably earlier, the Ottomans explicitly identified the city of Jerusalem, and its important Imperial *awqāf*, with the exempted Sharifate of Mecca and Medina, known to the Ottomans and other Muslims as the *Ḥaramayn*: the 'Two Sanctuaries.' During the period under study, the term '*Ḥaramayn*' could not have referred to the *Al-Aqṣā* Mosque and Dome of the Rock, or to the buildings of the *Ḥaram al-Sharīf* in Jerusalem and the Tomb of Ibrāhīm al-Khalīl in Hebron. This term traditionally had a specific meaning to Muslims, including the Ottomans, and referred only to the Holy Cities of the Hijaz. Jerusalem was called '*Thālith al-Ḥaramayn*,' 'the third of the Holy Places.'[18] When, near the end of his life in 1566, the Ottoman Sultan Sulaymān the Magnificent dedicated additional revenues and produce from throughout *Bilād al-Shām* in support of the *Khaṣṣekī Ṣultān Waqf* established by his wife, one of the titles he used to

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[17] Cohen, *Economic Life*, 121–2.

[18] Note the dual form, and not the plural; Sir James Redhouse, *A Turkish and English Lexicon* (1890; reprint, Freeport, NY: Books for Libraries Press, 1973), II:780. See n. 1, above. See also Cohen and Lewis, *Population and Revenue*, 16. Only following the end of Ottoman rule in 1917, and the *de facto* separation of the Palestinian, Syrian and Hijazi elements of the *Ḥaramayn Waqf*, would the two *awqāf*—*al-Ḥaram al-Sharīf* and *Sayyidnā Khalīl*—be designated the *Ḥaramayn*, in for example al-Ḥusaynī, *Manhal*. Oded Peri understood the term *al-Ḥaramayn al-Sharīfayn* to mean the former—*Al-Aqṣā* and the Dome of the Rock; see "The Muslim *Waqf* and the Collection of *Jizya* in Late Eighteenth Century Jerusalem," in *Ottoman Palestine, 1800–1914: Studies in Economic and Social History*, ed. Gad. G. Gilbar (Leiden: E. J. Brill, 1990), 287–97 which refers to the *Waqf* of *al-Aqṣā* Mosque and the Dome of the Rock. ʿAdel Mannāʿ took the term in the same sense as Shaykh Asʿad—'the Mosques of Jerusalem and Hebron'—which reflects the current usage; Mannāʿ, "Sancak of Jerusalem," in Hebrew, 276. Rashid Khalidi found an uncatalogued document in the Khalidi library in Jerusalem from the early eighteenth century which strengthens my interpretation: the document addresses Sultan Muṣṭafā II as *khādim al-ḥaramayn wa-ḥāmī bayt al-muqaddas*—Servant of The Two Sanctuaries and Protector of Jerusalem (literally, 'The Holy House,' a Muslim name for Jerusalem) and refers to that city as *ūlā al-qiblatayn wa-thālith al-ḥaramayn*: "the first of the Directions of prayer and third of the Two Holy Places."

describe himself was '*Khādim al-Ḥaramayn*,' referring to the Holy Cities of Mecca and Medina.[19] Indeed, this relationship was manifested in the special fiscal relationship of Jerusalem with the *Ḥaramayn* and was central to Ottoman administration of the city, particularly during the reform period of Maḥmūd II.[20]

The root of the Ottoman identification of Jerusalem with Mecca and Medina lay both in their political status as the three holy cities of Islam and in their juridical status following the original Muslim conquest of Syria.[21] At an assembly in the Syrian military camp at Jabiya in 637, the Caliph ʿUmar declared the lands which surrendered unconditionally to his armies as *fayʿ*, or lands that would pay tribute to the central government, and which were to be held as a perpetual trust for all Muslims.[22] Thus, Syria and Iraq were regarded as lands subject to the land tax (*kharāj*). According to the Jabiya agreement, revenue from the conquered territories was to be collected and given to the central government, and those who had participated in the campaigns of expansion would be enrolled in the *dīwān* registers. Those so enrolled would be entitled to fixed stipends. The lands were therefore not divided and parceled out among the military, but instead controlled directly by the central government. Muslims would not settle these lands and pay the *ʿushr* tithe: rather, the original inhabitants would remain on their property, but would pay the *kharāj*, the land tax paid by non-Muslim subjects.

Over the course of time Syria became Islamicized, and the population became increasingly Muslim. The distinction between Hijazi and Syrian Muslims blurred, and the Muslims of Syria began, in effect, to pay the *kharāj* along with the non-Muslims. When the Mamluk territories encompassing the later Ottoman provinces of Sidon, Damascus, Aleppo, Baghdad, Basra, Mosul, Tripoli (Libyan), Bengazi, the Hijaz, and Yemen were conquered by the Ottomans, they were exempted from paying the normal *mīrī* taxes.[23] In keeping

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[19] Cohen, *Economic Life*, 102. For the *waqfiya*s of the *Takīya al-ʿImāra Khaṣṣekī Ṣultān Waqf*, see 78–104. See also Cohen and Lewis, *Population and Revenue*, 15.

[20] Inalcik, *The Ottoman Empire*, 107.

[21] On the conquest, see Fred McGraw Donner, *The Early Islamic Conquests* (Princeton: Princeton University Press, 1981), especially 91–155.

[22] John Robert Barnes, *An Introduction to Religious Foundations in the Ottoman Empire* (New York: E. J. Brill, 1987), 9, 23–4. See also "Kharāj," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

[23] See Mantran and Sauvaget, *Règlements Fiscaux*.

with the Ḥanafī school of jurisprudence, the Ottomans declared these conquered territories as belonging to the *Bayt Māl al-Muslimīn*, the common treasury of the state, to be used for the benefit of all Muslims. As such, under the Ottomans, all these conquered lands except the Hijaz and Basra continued to be considered *kharāj* lands, held in inalienable trust for all Muslims, whose usufruct could be leased out in the name of the *Bayt al-Māl* by the Sultan as *imām*, or leader, of the Muslim community. The Hijaz and Basra, however, were categorized as provinces paying the *ʿushr* tax, the tithe paid by Muslims. The Ottomans, after their conquest of the Arab provinces and the creation of the Province (*Eyālet*) of Damascus during the years 1517–1520, recognized existing practices regarding the taxation of land and Islamic law governing the tenure of arable land in the Province of Damascus within the *mīrī* system.[24]

Under Islamic law, a *waqf* is a legal entity, comprising land or property whose revenues are set aside to benefit the entire Muslim community. It has long been thought that this stipulation meant that such trusts were endowed for charitable purposes, and that it was the charitable purpose of such *awqāf* which made them valid and sound under Islamic and Ottoman law. However, that is not the case.[25] A valid Islamic *waqf*, the *waqf ṣaḥiḥ*, came to mean an endowment which is made from lands that pay the *ʿushr* or *kharāj* tax. The meaning of the *waqf* in the Ottoman context is that such lands can never be permanently alienated from the central treasury of the Islamic state—*Bayt Māl al-Muslimīn*. Property and land so endowed thus became in essence totally inalienable, removed from legal transfer, as church property is in the West. Since the ownership of such property ultimately belongs to God, only the use of the property, and

[24] Inalcik, *The Ottoman Empire*, 105–7; Hütteroth and Abdulfattah, *Historical Geography*, Map 2. This map clearly shows that in the sixteenth century *awqāf* lands in Jerusalem and the other *sanjaq*s of southern Syria were already linked to *awqāf* institutions in the Hijaz and Egypt, and that *awqāf* located in the city of Jerusalem were connected with lands throughout the region. However, this map, and the data supporting it—i.e. the *daftar mufaṣṣal* from 1596–1597, shows that the linkages between the Hijaz and Jerusalem itself were few, and that Jerusalem and Hebron were by far the greater nexuses for *awqāf* in the region in terms of absolute numbers of linkages. By the nineteenth century, though, the link between Jerusalem and the Hijaz was the predominant feature of the Imperial *awqāf*.

[25] See Kenneth M. Cuno, '*Miri* or *Milk*,' 121–52. Compare Haim Gerber, *Ottoman Rule in Jerusalem*, 179, 313 n. 6 and 314 n. 8 and Daniel Crecelius, 'The Waqf of Muhammad Bey Abu al-Dhahab in Historical Perspective,' *International Journal of Middle East Studies* 23 (1991): 57–81.

the produce and revenues that it yields can be allotted to the beneficiaries of the *waqf*. The logic of this arrangement is based on the Islamic notion of the common good of the people residing in a just state, whose resources are exploited and protected for the benefit of all Muslims.

In the mid-1820s Sultan Maḥmūd II began to implement reforms in *waqf* administration throughout the empire. He sought to reassert direct state control over all *awqāf* in the empire, based upon the formal recognition of the previously uncodified, but inherent distinction between canonically valid and invalid *awqāf*.[26] This distinction was always inherent in the Ottoman system: Maḥmūd formalized it in order to reassert control of all *mīrī* lands in the empire. From this period onward, under Ottoman law, there were two officially recognized forms of *awqāf*: the valid *waqf* and the invalid *waqf*, *waqf ṣaḥiḥ* and *waqf ghayr ṣaḥiḥ*. The former were composed of lands paying the *kharāj* and the *ʿushr*, and thus were located in Syria, Iraq, and the Hijaz, which were recognized as *waqf* under Islamic law. Invalid endowments, on the other hand, reassigned revenues which were due to the treasury, ostensibly for some religious or charitable purpose or a specific purpose by which *awqāf* could legitimately be established. There were three types of the 'invalid' *awqāf* accepted by the Ottomans until 1825. The first type allowed the revenues of land to be made *waqf*, while the substance of the land, and its right of use and possession were kept by the treasury; the second, the right of use was given as *waqf*, while the substance and revenues remain with the treasury; and the third type assigned both possession and revenue to the *waqf*, while the substance remains with the treasury.

Under Ottoman administrative law after 1826, all *awqāf* not falling under the category of *ṣaḥiḥ* were deemed invalid, since they were established upon land that had been alienated at some point from *mīrī* lands. It is often thought that any and all charitable and religious trusts were valid, true *awqāf* in Ottoman lands, probably because they were established for ostensibly religious and charitable purposes. However, this is a misplaced assumption that has caused great confusion in the interpretation of the institution of the *waqf* in the Ottoman period. What is important is not the *purpose* of the *waqf*,

[26] Barnes, *Religious Foundations*, 67–88, 102–17, 154–6.

nor the type of possession, but the *nature of the land* in the Ottoman system of land tenure.

In Jerusalem, the Ottomans administered *Al-Aqṣā* Mosque and the Dome of the Rock together with the *Waqf* of the Two Noble Sanctuaries of Mecca and Medina (*al-Ḥaramayn al-Sharīfayn*). This administrative feature explains the relative unimportance of Jerusalem as a part of the pre-*Tanzimat* Ottoman Empire. Since the three cities were organized for purposes of the fisc as one institution, and since the Ottomans placed a higher degree of importance on Mecca and Medina, Jerusalem was overshadowed in an institutional sense.

Nevertheless, its rank as the third holiest city did confer status and important privileges to the *'ulamā'* who served as administrators of the imperial *awqāf* there. Indeed, the *afandiyāt* of Jerusalem has been characterized best by Butrus Abu-Manneh as a "notability of service and descent."[27] One of the most important posts in the city was the *Shaykh al-Ḥaram*, the Superintendent of the Dome of the Rock and *Al-Aqṣā*.[28] Moreover, *Al-Aqṣā* had its own *waqf*, as did other mosques, tombs, schools, hospices, etc., which received revenues from many shops, agricultural lands, and other income-producing urban and rural properties throughout *Bilād al-Shām*.

The financial support of the Holy Cities, and the annual *Ḥajj* pilgrimage, obviously were not solely a Palestinian responsibility. Financial obligations were imposed not only on towns and villages in the administrative districts of Jerusalem, Nablus, and Hebron, but also on other cities throughout the empire, including Damascus, Aleppo and cities in Anatolia and the Balkans.[29] The *Waqf* of *Sayyidnā Ibrāhīm al-Khalīl* (Our Lord Abraham, the Beloved Friend of God, as he is known to Muslims) located in Hebron, and known in the West as the 'Tomb of the Patriarchs' or the 'Cave of Machpelah,' held claim to the revenues of many southern Palestinian villages and agricultural lands and was administered as a part of the other important Imperial *awqāf*.[30]

Unlike most other *awqāf*, these imperial *awqāf* were considered by the Ottomans as true and valid, in accordance with Islamic law and

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[27] Butrus Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 1–43, 14.

[28] Abu-Manneh, "The Ḥusaynīs," 93–108, especially 94.

[29] Marcus, *Eve of Modernity*, 305; James A. Reilly, "Women, Property and Production in Ottoman Damascus," (paper presented at *Middle East Studies Association* Annual Meeting, Washington, DC, November 1991), 11.

[30] On this *waqf*, see *LCRJ* 319, 31–2, and below 64 n. 13.

practice. This ensured that the central government treated the revenues, servants, and properties of these *awqāf* with respect and circumspection. Even Muḥammad ʿAlī, who confiscated *awqāf* throughout his territories, did not alter the formal structure of the *awqāf ṣaḥīḥa* of Jerusalem, although he would extend his direct control over their revenues.[31] Peasants living on lands dedicated to the support of these *awqāf* were among those exempted from paying the *mīrī* land tax.[32]

The Tīmār *System and the Role of the Governor-General: The Adjustment of Provincial Land Tenure*

The classical Ottoman system of assigning revenues of *mīrī* land to military officers as long as they performed their basic military functions for the Sultan was known as the *tīmār* system. The disposition of lands not held as *awqāf* in the form of grants to Ottoman officers throughout the empire thus created the second great economic category, after *awqāf*, in the region. These military grants originally were good for the life of the beneficiary; after his death the lands would revert back to the Sultan.[33] Under this system, holders of land grants were responsible for collecting the taxes owed to the central government. Over time, this responsibility was increasingly leased out to the highest bidder in a short-term tax-collecting system called *iltizām*, and then later as long-term *mālikāne* leases. Later, in the nineteenth century, *tīmār*s still in existence appear to be inheritable, so long as the Porte authorized the transfer passing the title from father to sons. Although the military logic of the *tīmār* system was no longer in force in the later centuries of Ottoman history, the form of the system continued to determine land tenure patterns throughout the empire. Blocks of land once granted as *tīmār* would simply be redistributed in the form of *mālikāne*s, *çiftlik*s, or *awqāf*.

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[31] Crecelius, 'Waqf of Muhammad Bey Abu al-Dhahab,' 77. He presumably did not alter such *awqāf* in the Hijaz, either. Muḥammad Yūnis al-Ḥusaynī, in his *Al-Taṭawwūr al-ijtamaʾī wʾal-iqtiṣaḍī fī Filasṭīn al-ʿarabiya* (Jaffa: Maktaba al-Ṭāhir Ikhwān, n.d.), 159 writes that Muḥammad ʿAlī controlled the revenues of the *Khaṣṣekī Sulṭān Waqf* in Jerusalem during his occupation of Syria.

[32] Cohen and Lewis, *Population and Revenue*, 16.

[33] I. Metin Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550–1650* (New York: Columbia University Press, 1983). See also Douglas Howard, "The Ottoman Timar System and its Transformation 1563–1656," (Ph.D. diss., Indiana University, 1987), 151–2. Suraiya Faroqhi notes that *tīmār*s could be taken away and the holder reassigned to another, elsewhere.

The general abandonment of the original rationale of the *tīmār* system during the seventeenth and eighteenth centuries had led to the rise of new political practices and actors throughout the system.[34] In the eighteenth and nineteenth centuries, the organization of the Ottoman provincial military and political administration was adjusted to meet the fiscal and defense needs of the empire. The rise of the *mālikāne* tax-farming system at the end of the seventeenth century proved to be an important aspect of the transformation of Ottoman government in the provinces.

The *mālikāne* system evolved from the *iltizām* system. The right to collect taxes from a certain parcel of land was sold at auction, as was the case for the *iltizām* system, but instead of auctioning this right on a yearly basis, the treasury now set a fixed amount of taxes to be collected from the parcel, and then auctioned this right to the highest bidder, who would then be the tax collector for his entire life. Those who competed for the right to collect taxes knew the current value of the parcel, and made the initial investment with an eye to the long-term potential of the land. All bids were publicly registered with the treasury, and the bidding remained open until prospective buyers had sufficient time to acquire a reasonable amount of information about the parcel in question. Upon payment, the purchaser received a certificate authenticating his claim. In accordance with the laws governing the certificate, the buyer could manage the parcel as he pleased, and even sell his rights to another tax-farmer; only a *qāḍī* could intervene in matters relating to the *mālikāne*. This reformed tax-farming system provided greater stability and security than the *iltizām* system. The only risks that the *mālikāne* holder bore were the ones inherent to the parcel itself: the economic, political, and ecological climates in which it was located. Any investments that were made to improve the yield of the land would lead to profits. This revolutionized the relationship of the tax-farmer to the land, making the long-term potential of the parcel the key to success, benefiting the local and Imperial economies, as well as the tax-farmer himself.[35]

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[34] Inalcik, "Centralization and Decentralization," 27–52; 'Military and Fiscal Transformation,' 283–337; and "The Nature of Traditional Society: Turkey," in *The Ottoman Empire: Conquest, Organization, and Economy* (London: Variorum Reprints, 1978), chaps. 13–15; and Deena A. Sadat, 'Rumeli Ayanları', 346–63; and H. Bowen, "Aʿyān," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill). See also Linda Darling, *Revenue-Raising and Legitimacy: Tax Collection and the Finance Department in the Ottoman Empire, 1560–1660* (Leiden: E. J. Brill, 1996).

[35] Mehmet Genç, "A Study of the Feasibility of Using Eighteenth-Century Ottoman

Under the *mālikāne* institution, the holder of the land (*multazim*), rather than bidding for the grant whose proceeds accrued to him during a specified period of time as had been the case under the classic *iltizām* tax-farming system, instead became responsible for collecting the taxes due for his *muqāṭaʿa* throughout his life. He could thus support his household and pay for the maintenance of his own military forces with revenues drawn from these landholdings.

This practice gave rise to widespread abuses as tax-farmers demanded more than the legally established levies and services from the taxpayers. Under Ottoman administrative law which was applied to each province, including *Bilād al-Shām*, the taxpaying villagers and townspeople were obligated to perform certain duties for, and to pay taxes, in cash and in kind, to the government. In exchange, the "prime duty of the central government was to protect the subject from abuses of authority by local figures."[36]

For example, among the labor services which were incumbent upon the taxpaying population in Anatolia and the Balkans in the sixteenth century were the following: transporting the tithe of their produce belonging to the *tīmār*-holding calvaryman (*sipāhī*) to a granary or garrison, or to the nearest market, as he wished, so long as it was not more than the distance of one day's travel; reaping hay for the *sipāhī*, but not transporting it; building a granary for the *sipāhī*; working the land reserved for the *sipāhī*'s own use (*hāssa çiftlik*), and cultivating his vegetables and orchards, for a period not longer than three days a year. Later this obligation was commuted into a cash payment, and the *sipāhī*'s fields were leased to the villagers for farming. In the Arab provinces these duties were adapted to fit local conditions at the time of the Ottoman conquest, and so some of these obligations did not obtain there.[37] Nevertheless, the *raʿāyā* of the Arab provinces were required to fulfill similar obligations under the Ottomans and under the Khedival regime.

Financial Records as an Indicator of Economic Activity," in *The Ottoman Empire and the World-Economy*, ed. Huri Islamoğlu-Inan (New York: Cambridge University Press, 1987), 347–8.

[36] Inalcik, "The Ottoman Decline and Its Effects on the Reaya," in *The Ottoman Empire: Conquest, Organization, and Economy* (London: Variorum Reprints, 1978), 339–50.

[37] Amy Singer has published the Jerusalem *Qānūnname* in the context of Ottoman rural administration and reform undertaken by Sultan Sulāyman. See her *Palestinian Peasants and Ottoman Officials: Rural Administration around Sixteenth-Century Jerusalem* (Cambridge: Cambridge University Press, 1994), 47–51. For peasant options and strategies in response to unfair taxes, see 10–7, 89–118.

Billeting was another major issue faced by the subjects of the Ottoman Empire. The quartering of the *sipāhī*'s soldiers and their animals in the homes of villagers and townspeople was an odious and difficult obligation; the state therefore limited the lodging of a *sipāhī* in a village in his own *tīmār* to three days. The Porte further limited the practice of lodging soldiers among the people by ordering that the visits be made as infrequently as possible, that the number of soldiers on a given mission be kept to the lowest possible number, and that the *sipāhī* should pay for the provisions used by his troops. However, this practice, necessitated by military campaigns and the exigencies of provisioning soldiers as they made their ways across the great expanses of the empire to the front or to undertake other service to the Porte, would continue to cause rancor and abuse during the entire period under study.

Another abuse related to the militarized form of government in the provinces was the practice called by the Ottomans '*salma*' or '*salgun*.' These terms referred to illegal requisitions of grain, livestock, and cash. Such rapacious levies were known collectively in Turkish as '*tekālıf-i şākka*.' Originally any irregular cash taxes were known as *ʿawāriḍ* and were the source of many problems for peasant and central government alike, but during the seventeenth century the Ottomans made the *ʿawāriḍ* a regular levy. Although the central government did, on particular occasions, countenance some specific kinds of requisitions, unauthorized exactions on the part of a governor-general or his deputies were grounds for severe punishment. Unfortunately for the villagers the central government was more often than not unable to mete out justice to the offenders. Although the *tīmār* system had been transformed during the eighteenth and nineteenth centuries, legal codes governing the provinces were not changed, and the *raʿāyā* continued to bear non-fiscal responsibilities to the government. However, the governors-general went beyond the law by imposing various illegal taxes and exactions, and it was on this basis that the *raʿāyā* would petition the *qāḍī* and the Sultan for redress, or failing that, rebel against them as, for example, in Bethlehem in 1826/1827.

Under Ottoman law, each official, whether he be a commander, a tax collector, a judge, or the holder of a tax-farm, was entitled to a set income. The application of the laws regulating the collection of revenues was flaunted by an increasing number of officials. Whether the corruption of the provincial rulers was due to simple avarice or because they were no longer the products of the schools which had been designed to inculcate respect for the law is part of a controversy

debated by Ottoman reformers themselves as well as contemporary historians. The real difference, suggests Faroqhi, is that beginning in the eighteenth century, officials had to finance their own activities, rather than receiving funds allocated for this purpose.[38] The Palace institutions no longer transmitted Ottoman values to provincial government officials. Pressed by their own difficult financial straits, provincial governors-general were in a position that allowed them to ignore the laws of the empire easily, particularly as they were, as *aʿyān*, in a real sense outside of the bounds of its inner sanctum. Nevertheless it is clear that villagers and townspeople were aware of their rights under Ottoman law, and that when these were transgressed, the people acted.

Indeed, in response to the abuses engendered by administrative corruption, the Sultans had, as early as the sixteenth century, begun to promulgate orders called 'justice decrees' (*ʿadāletnāme*). In the nineteenth century, the appointment of each governor-general included references to his responsibility to uphold justice for the subjects in his territory.[39] While specific administrative rules may have changed over time, the standard of justice symbolized by Ottoman adherence to the *Sharīʿa* thus remained the basis for their continued rule.

By the late eighteenth century, changes in the *tīmār* system throughout the Ottoman Empire were evident also in the Province of Damascus. Prior to the Khedival occupation, most *tīmār*s had become vacant (*maḥlul*), some because they had not been reassigned upon the death of the last holder, others because they had been removed (*rāfiʾ*) from the last holder because he no longer provided service to the Sultan. Following Sultan Maḥmūd II's liquidation of the Janissary corps in 1826, a general proclamation was sent throughout the empire concerning the *tīmār* system.[40] In it, authorities ordered a halt to the

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[38] Marginal note.

[39] See appointment documents, *LCRJ* 315, 107, 129; 316, 45; 318, 70; 319, 5–6, 164, 185; 320, 15; 321, 4–5; 322, 154; 324, 2; and Rustum, *Uṣūl*, I:53–7, 83–6, 109–10; II:42–3, 101–2, 117–8; III/IV:11–2, 12–3, 41–2, 234–5; V:122–3.

[40] George Koury, "The Province of Damascus 1783–1832," (Ph.D. diss., University of Michigan, 1970), 29; *LCRJ* 315, 70–1 dated 3 *Dhū-l-Ḥijja* 1247/5 May 1830, in Turkish. Some vacant *tīmār* lands were made *waqf*. See, for example, *LCRJ* 315, 13 regarding the *Waqf* of *Sayyidnā Rūbīl*. A dispute between the custodian of the *waqf* against the two *zaʿīm*s claiming the right to cultivate land from their *tīmār* which had been made *waqf* thirty years previously. The original *waqfiya* of Aḥmad al-Dajānī, *LCRJ* 40, 111 dated 20 *Rabīʿ II* 968/9 January 1561 shows that that *waqf* was also made of former *tīmār* land, and is recorded in an anthology and commentary of documents by al-Ḥusaynī, *Manhal*, 124–6.

abuse of the system, and to the practice of paying a sum of money as compensation (*badal*) in lieu of military service.[41] Instead of abolishing the *tīmār* system, the Porte sought to reorganize and retrain *tīmār* holders into a regular standing military unit, thus bringing a large number of cavalrymen in the 'New Order' (Arabic: *Al-Niẓām Al-J̌adīd*). In light of this policy, the competency of *tīmār* holders to perform military service was to be reviewed, and those who were unable to perform military service, or who refused to comply with the new directives, would be dismissed and new assignments made. Any unassigned *tīmār*s would be reassigned to a competent person, preferably living in the area of the *tīmār*, between the ages of 15 and 40 years old. The directive also forbade the designation of *tīmār*s as pensions to those under the age of 60, or to anyone of sound health and body. Only the infirm, aged, or those wounded in performing their military duties would be eligible to receive a *tīmār* as a pension (*taqāʿud*) and only after careful screening.[42] These new conditions "constituted a radical departure from the prevailing situation," and were bound to create discontent among *tīmār* holders who had long enjoyed the benefits of the office without having to perform any military services for the Sultan.[43]

In addition, from later documents contained in the court registers, it is clear that the institution of the *tīmār* was never actually abolished in practice, but that the Ottoman reorganization of the military system underway in the Province of Sidon was interrupted by the invasion of Syria by Muḥammad ʿAlī in the fall of 1831.[44]

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[41] During the American Civil War, this practice was also followed: "[Confederate] veterans were especially resentful because wealthy draftees were allowed to pay substitutes to serve in their place, and men who owned twenty slaves or more were altogether exempt," and "[In the North] any man who could come up with $300 as a 'commutation fee' or could find a substitute willing to serve in his place, was exempt." Abuses of this policy were widespread and much resented. Geoffrey C. Ward et al., *The Civil War: An Illustrated History* (New York: Alfred A. Knopf, Inc., 1990), 129, 242–3.

[42] '*Taqāʿud*' is translated as 'life-term' in Genç, "Feasibility," 347 and as 'pension' by Koury, "Province," 182.

[43] Koury, "Province," 182. See also Rustum, *Maḥfuẓāt* I:74–84, Doc. No. 203.

[44] Mordechai Abir, in his "Local Leadership and Early Reform," in *Studies in Palestine in the Ottoman Period*, ed. Moshe Ma'oz (Jerusalem: Magnes Press, 1975), 302, mistakenly asserted the "feudal chiefs" welcomed the Egyptian invasion because they "must have been aware at this time or shortly afterwards of the fact that Mahmud abolished the old system of timars and sipahis (cavalrymen) altogether." For evidence of the continuation of the *tīmār* system throughout the period of Khedival rule, see *LCRǰ* 318, 57. In this case, a *tīmār* is upheld by the *muftī* and

When Maḥmūd II ordered the dissolution of the Janissary military organization in 1826, he sent out *firmān*s to the provinces commanding its liquidation throughout the empire; the *firmān* sent to Jerusalem was recorded in August 1826.[45] The provincial Ottoman authorities, including those in Damascus, did not, however, act to implement this command.[46] Indeed, some Janissaries in Anatolia fled to Syrian cities to find refuge. It should be noted that by this time the Janissaries in the Province of Damascus were no longer as powerful as they had been in the eighteenth century. In the *sanjaq*s of Jerusalem and Hebron the Ottoman authorities had attempted to reorganize the existing military system to make it more efficient, specifically for the purposes of controlling pilgrims and tourists in the holy places of the area. In contrast, in the rest of the Empire, the Janissaries and provincial cavalrymen were called up for actual military service to be integrated into the New Order.

During much of the Ottoman period, the city of Jerusalem was administered as a part of the Province of Damascus following the pattern of the classical *tīmār* system. The city was the capital of the *sanjaq* of *Jabal al-Quds*, the administrative district of the mountains of Jerusalem. Other *sanjaq*s of the southern part of the Provinces of Sidon and Damascus—Jabal Nablus, Gaza, Jaffa, Ramla, Lydda, Acre, Hebron, Sidon, Jenin, Tulkarem, Karak—were tied to Jerusalem through the legal system, as evidenced by documents regarding cases from these towns scattered throughout the court registers.

Arḍ Filasṭīn: *"The Land of Palestine" in Ottoman Geography*

The *sanjaq* of Jerusalem and the mountainous lands of the *sanjaq* of Nablus (*Jabal Nabulus*) were distinguished geographically from what is called in the court registers "the land of Palestine" (*Arḍ Filasṭīn*)

Ḥanafī qāḍī on 11 January 1834; in another case, dated as late as 23 May 1837, the right of cultivation is conditioned upon payment to the holders of the *tīmār*, *LCRJ*, 321, 74.

[45] Mannāʿ, "Sancak of Jerusalem," 39 n. 223, 67. Mannāʿ notes that this *firmān* was not completely transcribed in the Jerusalem *sijillāt*, stopping at the request that it be sent to Syria. It is interesting to speculate about the personal feelings of the scribe as he copied the order.

[46] *Ibid.* Indeed, Mannāʿ cites evidence that the Janissaries continued to exist and exert influence in Syria even into the 1840s. See also H. L. Bodman, *Political Factions in Aleppo, 1760–1826* (Chapel Hill: University of North Carolina Press, 1963).

encompassing the towns of Gaza, Ramla, and Lydda (Lod).[47] This distinction tallies with the description of Palestine given by Volney in the late eighteenth century, who described it as a geographical unit including all of the land "between the Mediterranean to the West and the chain of mountains to the East, and two lines, one drawn to the South, by Khan Younes, and the other to the North, between Kaisaria [Caesarea] and the rivulet of Yafa [Jaffa]." He noted that Palestine was "almost entirely a level plain, without either river or rivulet in summer, but watered by several torrents in winter" and that it was "a district independent of every pashalic [*sanjaq*]," which occasionally had "governors of its own, who reside at Gaza under the title of Pashas; but it is ususally, as at present, divided into three appanages, or *melkana*, [*mālikāne*] viz. Yafa, Loudd [Lydda/Lod] and Gaza."[48]

Thus, the term *Arḍ Filasṭīn*, 'the land of Palestine,' was used during this period to refer specifically to a geographical area in agricultural use and divided into tax-farms (*mālikāne*) whether administered as independent *sanjaq*s or attached to adjacent *sanjaq*s.[49] Historically this land was controlled directly by the central government in Istanbul by leasing it to Ottoman officers. In the period before the invasion, ʿAbdullāh Pasha, Governor-General of Sidon, obtained the lease. Notwithstanding the fact that the *Khaṣṣekī Sulṭān ʿImaret* was endowed with lands in the vicinity of Lydda and Ramla, the important point here is that a significant portion of these rich agricultural lands were not attached to the Imperial *awqāf* of Jerusalem, and thus were not

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[47] *LCRJ*, 319, 74; and 321, 53. Also see Haim Gerber, '"Palestine" and other Territorial Concepts in the 17th Century,' *International Journal of Middle East Studies* 30 (1998): 563–72.

[48] M. C. F. Volney, *Travels Through Syria and Egypt in the Years 1783, 1784, and 1785*, 2d ed. (London: G. G. J. and J. Robinson, 1788) II:327–8. Volney described Gaza as "a town of some importance . . . not withstanding its proud title as the capital of Palestine [i.e. the geographical name of the coastal plain, as described above], it is no more than a defenseless village" of two thousand people, who supported themselves primarily by the weaving of cotton on some five hundred looms and the manufacturing of soap. *Ibid.*, 332–4, 340. Also Mrs. [James] Finn, 'Fellaheen of Palestine,' 34.

[49] The term '*Arḍ Filasṭīn*' is a variation of the ancient geographical name that was used in the Old Testament (Genesis 21:32 'land of the Philistines') and by Arab geographers throughout the Islamic period. The use of the term in the court records was specific, and did not include the *sanjaq*s of Jerusalem, Hebron, and Nablus, as described by Volney. Compare Bernard Lewis' analysis entitled 'Palestine: On the History and Geography of a Name,' *International History Review* 11 (1980): 1–12.

administered by the notables of the city. To the north and east, the *sanjaq* of Jerusalem was bounded by the *sanjaq*s of Acre, Nablus, and across the Jordan River, by the *sanjaq* of Karak. To the south lay Hebron, sometimes nominally a part of the *sanjaq* of Jerusalem, but in fact a rebellious and nearly autonomous town with a powerful and militant leadership of its own.

In his study of the Ottoman Province of Damascus, Karl Barbir warned that the "problem of provincial boundaries in the Ottoman Empire has been taken too seriously by modern observers."[50] While we should not be too preoccupied by this problem, it is important to understand the division and subdivision of the Province of Damascus because this issue points to the dynamic role of the individual governor-general (*wālī*) in provincial administration. The configuration of a province mirrored the political position of both the Porte and the governor-general himself in the power struggles of the empire.

An Ottoman administrative unit was defined by its capital city, the locus of its commercial and political life, and by its *wālī*, whose relationship with Istanbul affected the stability and prosperity of the region. The province and its subunits were historically the building blocks of the Ottoman Empire which were administered by members of the Ottoman military/ruling class (*ʿaskarī*). By adding to the territory of a given provincial governor-general, the Porte could increase his prestige, wealth, and influence, or, by giving territory to a rival, it could clearly show its displeasure. If a governor-general grew powerful enough, he could forcibly annex neighboring areas, and if the Porte considered the new configuration beneficial to the Treasury, and not threatening to stability of the life of the taxpaying inhabitants (Arabic: *raʿāyā*, Turkish: *reʿayā*) the governor-general would receive formal sanction for his move. If, however, the safety and prosperity of a region were endangered by too ambitious or tyrannical a governor-general, or one who was too weak and ineffective, he would be removed and a new governor-general would be named to replace him. It must be emphasized that whatever the disposition of an administrative unit at a given time, it was in itself an unalterable unit that could be annexed at any time to any other contiguous territory without changing its fundamental legal identity.

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[50] Barbir, *Ottoman Rule*, 16.

During the entire four centuries of Ottoman rule the boundaries of these provinces were drawn and redrawn to meet the changing military, administrative, and political needs of the empire. Originally, the Ottoman term for province, '*eyālet*,' which comes from the Arabic verb *walā*, 'to manage, administer, exercise power,' meant any territory administered by a governor-general (*wālī/beylerbeyi*).[51] By 1591 *eyālet* had come to mean specifically a territory governed by a military commander with the rank of *beylerbeyi*. After the sixteenth century these commanders often held the rank of vizier, honored with a standard decorated by three horsetails. The *eyālet* was subdivided into smaller administrative units, each of which was called a *sanjaq*, in Turkish, or *liwā'*, in Arabic, both meaning 'banner,' and which were governed by a *sancak-beği* (district-governor) with the rank of pasha who was granted the central town of the *sanjaq* as his special estate, or '*khāṣṣ*.' A *khāṣṣ* brought an annual revenue of over 100,000 *akçe*s.[52] The pasha was entitled to the use of this estate's revenues to maintain himself and his troops, so long as he was serving the Sultan in his military capacity. This district-governor was then represented in each town of his *sanjaq* by a *mutasallim*, or deputy-governor.[53]

From the 1580s the term *eyālet* had gradually superceded the terms *vilayet* and *beylerbeylik*. I. Metin Kunt noted that until then, *eyālet* had been used for semi-autonomous areas, such as the Kurdish *sanjaq*s. The new usage reflected the growing power of the *beylerbeyi* and the concomitant rise in the fiscal importance of provincial government. The power of the governor-general (*wālī*) increased as he became responsible for supervising the collection of revenue in the provinces and made cash contributions to the central treasury, the *Bayt al-Māl*.[54]

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[51] Inalcik, "Eyālet," 721. In Arabic, a province was called a *wilaya* and is sometimes referred to as a *vilayet* after the Turkish pronunciation of the Arabic. See also Lewis, *Political Language*, 123 n. 22. *Sanjaq* is spelled *sancak* in modern Turkish; the former spelling will be used to reflect its pronunciation in English and Arabic spelling. The *sanjaq* was further divided into *nāḥiya*s. These subdistricts were represented by *shaykh*s of the resident tribes and clans. The area was also subdivided into juridical units called *qaḍā'*s which covered the same areas but were not identical in administrative terms to the *nāḥiya*s.

[52] Inalcik, "Eyālet," 723; and Inalcik, *The Ottoman Empire*, 221. The term '*vilayet*' began to be used again during the *Tanzimat* period with the passage of the 1864 *Vilayet* Law.

[53] Also *muṭaṣarrif*, used to denote the official authorized to collect and disburse revenues of that district in accordance with Imperial orders.

[54] Kunt, *Servants*, xi, 96–8. This work contains a good introduction to the Ottoman

In the Province of Damascus, too, the governor-general's financial role was augmented with additional responsibilities in the late eighteenth century, when the *wālī* was appointed commander of the *Ḥajj* and was authorized to collect the *jizya*, or Imperial capitation tax upon non-Muslims.[55] During the eighteenth and nineteenth centuries in Jerusalem, the *jizya* was one of the main sources of revenue for the Ottoman state treasury, and therefore the appointment of the *wālī* as the *jizyadār* signified Ottoman recognition of the important financial role of the governor-general during that period. Since, normally, the *jizya* belonged to the *Bayt al-Māl* and was collected directly for and spent by the Ottoman state treasury, it is especially striking that the *wālī*, as *jizyadār*, accompanied by the *qāḍī*, distributed the revenues coming from the *jizya* directly as income to those local Muslims who received salaries derived from the *jizya* and as cash transfers (*ḥavalat*) earmarked by the Ottoman treasury to cover itemized budget expenses.

Oded Peri's research showed that the control of some two-thirds of the actual sum of the *jizya* revenues collected in the district of Jerusalem ended up in the hands of the provincial governor-general of Damascus, who at the time also served as the *Amīr al-Ḥajj*, the 'Commander of the Hajj caravan,' from that city. It followed that the Porte would entrust this official with the collection and disbursement of the *jizya*.

The Rise of the Provincial Aʿyān

During the eighteenth century, a new political class had begun to emerge, especially during and after the Russo-Ottoman War of 1768–1774. Indigenous potentates, called *aʿyān*, who were not schooled as members of the *ʿaskarī* class, began to acquire political power

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system of provincial administration; see 1–17. See also 21–2 on legal systems in the Ottoman Empire.

[55] Oded Peri, "The Muslim *Waqf*," 287–97. His titles were thus '*Amīr al-Ḥajj*' and '*jizyadār*.' Peri wrote that "in Jerusalem at that time the poll tax imposed upon the non-Muslim (i.e., Christian and Jewish) communities of the city was apparently the main, if not the only, source from which the Ottomans could hope to collect some revenue," *ibid.*, 287. For the city of Jerusalem this is clearly the case, since the Muslims living there were exempted from paying the *mīrī* taxes, and the revenues of local shops, agricultural lands, and even tithes on churches and religious articles were reserved for the Imperial *awqāf*.

through tax-farming and forming militias in return for military services to the Porte. In the nineteenth century, the pashas governing the provinces of Damascus, Sidon, Tripoli, and Egypt all shared the distinction of having been raised outside the Palace tradition. None was a product of the Imperial schools that trained the Sultan's servants to be his slaves (*kul*). Instead, they had their roots among the tax-paying subjects of the empire, but had attained positions in the military households of local *aʿyān*, where they distinguished themselves as soldiers and leaders.[56]

Metin Kunt found that the administrative centralization of the Ottoman Empire before the eighteenth century had resulted in part from the appointment of the graduates of the Imperial household to the highest positions in the central and provincial administration. However, he also pointed out that during the eighteenth century and thereafter the private households of prominent military commanders (Arabic: *umarāʾ*, Turkish: *umerā*) had become more powerful. This resulted in the fundamental power shift away from the palace-trained administrators to local, provincial leaders in the eighteenth and nineteenth centuries. This process, which began as early as the sixteenth century, began to alter the classical differentiation between *raʿāyā* and *ʿaskarī*. *Raʿāyā* could become upwardly mobile by volunteering in the lowest ranks of the Ottoman army, hoping that through service in campaigns they would be awarded *tīmār*s. Over time, these volunteers began to join the households of the *umarāʾ* as mercenaries, and perhaps even as permanent members, as shown by Jane Hathaway's studies of Egypt. At the same time, some members of the *umarāʾ* households were appointed as district-governors and military commanders. Some of these officials would serve as interim governors in the capacity of *mutasallim*, performing the duties of even so high an official as provincial governor-general.[57] In this pattern we find the explanation for the rise of Muḥammad ʿAlī from the ranks of the *raʿāyā* to *wālī* of Egypt.

In some provinces, these locally based magnates, called in Ottoman times *wujūh* or *derebey*, became more powerful than the Ottoman governor-general, and in some cases after 1774 usurped the title of *pasha*, a military title originally intended only for the *ʿaskarī* class

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[56] Inalcik, "Nature of Traditional Society," chaps. 13–15 passim.

[57] Kunt, *Servants*, 97. See also Jane Hathaway, *The Politics of Households in Ottoman Egypt: The Rise of the Qazdağlıs* (Cambridge: Cambridge University Press, 1997).

serving the Sultan.[58] Indeed, some of these *aʿyān* acquired governorships and established localized dynasties. The Porte, which had institutionalized the creation of the office of *aʿyān* before the Russo-Ottoman war in order to raise both money and troops, soon lost control over this new class. After failing to reform or abolish it in the years 1779–1790, the Porte was forced to allow it to flourish until finally, in 1812, Sultan Maḥmūd II was able to do away with it as he attempted to reverse the decentralization of political control throughout the empire. His efforts led to the reforms of the military organization of the empire and ultimately to the Ottoman reforms of the mid-nineteenth century known as the *Tanzimat.*

The development of strong private military 'households' in the provinces during the age of the *aʿyān* combined with the emergence of the office of governor-general (*wālī*) to form an increasingly important locus of power within the empire. What had originally been forces for centralization had themselves become centrifugal: being semiautonomous, the governors-general were tempted to achieve increasingly greater degrees of autonomy, this ambition being fueled by the military and economic independence they now enjoyed. Indeed, it was this process that underlay the emergence and challenge of the increasingly powerful governors-general in the Arab provinces during the first half of the nineteenth century.

In the period before the Egyptian conquest of Syria (1831), the governor-general of a province was consistently called a *wālī*, and the title held by his deputy-governors in the *sanjaq*s was *mutasallim.* During the early nineteenth century, political administration in the Provinces of Damascus and Sidon closely followed the pattern identified by Kunt. The *eyālet* system was replaced ultimately in 1864.

The Judge and The Governor: Sharīʿa *and* Siyāsa

The governor-general and his deputy-governors represented the "executive power of the Sultan in all matters" in the province. According to Inalcik, it was the governor-general's duty to enforce the decisions of the judge according to Islamic Law, implement the Sultan's orders, maintain the public order, bring criminal offenders to justice, and

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[58] Redhouse, *Lexicon*, III:267.

punish opponents of the government.[59] David Ayalon, after a careful analysis of the use of the term *Siyāsa* (usually translated in its modern sense: 'politics') by Mamluk historians, supported Joseph Schacht's definition of the term as "that discretionary power of the sovereign which enables him, in theory, to apply and to complete the sacred law, and in practice, to regulate by virtually independent legislation matters of police, taxation, and criminal justice. . . ."[60] Inalcik's early description of the governor-general's responsibilities supports Bernard Lewis' contention that the term *Siyāsa* had a special meaning in Ottoman government: 'punishment.' "More particularly it means punishment which is severe, physical, probably capital, and—this is the important point—not provided for by the *Sharīʿa*." *Sharīʿa* penalties are normally called '*ḥadd*.' "*Siyāsa* is a punishment administered under the discretionary power of the ruler, for an offense against the authority of the ruler. In this sense it invariably means severe physical punishment and frequently death."[61]

Indeed, *Siyāsa*, until the time of Muḥammad ʿAlī, enveloped the entire machinery of administrative justice dispensed by the Sultan and his agents, in contrast to that dispensed by the *ʿulamā'* under the *Sharīʿa*. The officials of the Islamic courts were obliged to obey the Sultan's policies, within the limitations of the *Sharīʿa*.[62] The Islamic Court was responsible for recording administrative orders along with the business of the *qāḍī*s and their retinues, and although the *qāḍī* could seek to challenge judgments made by a governor-general exercising his powers within the realm of the *Siyāsa*, he could not override them. The Sultan, supported by the *Shaykh al-Islām*, was the ultimate

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[59] Inalcik, "*Eyālet*," 721–4; also Kunt, *Servants*, 21.

[60] David Ayalon, 'The Great Yāsa of Chinghiz Khān: A Reexamination,' *Studia Islamica* 38 (1973): 119. Ayalon refutes A. N. Poliak's interpretation of the Yāsa published in *Feudalism in Egypt, Syria, Palestine and the Lebanon: 1250–1900* (1939; reprint Philadelphia: Porcupine Press, 1977), 14–5. See also Uriel Heyd, *Studies in Old Ottoman Criminal Law* (Oxford: Oxford University Press, 1973).

[61] Bernard Lewis, "Siyasa," in *In Quest of an Islamic Humanism: Arabic and Islamic Studies in Memory of Mohamed al-Nowaihi*, ed. A. H. Green (Cairo: American University of Cairo Press, 1984), 9. See also his *Political Language*, 122 n. 19. Lewis' etymology of the word to 'horsehandling'—tracing its roots to the verb *sāsa*, 'to train a horse,' is particularly evocative because of the importance of the whip in both the equine and penal worlds. Amnon Cohen illustrates this point by citing the case of a Muslim butcher who stood accused of "slaughtering by the Jewish method," who received judgment at the hand of the *mutasallim* of Jerusalem "who issued a decree imposing the *Siyasa* upon him." Cohen, *Jewish Life*, 151–2 and 251 n. 18. See *LCRJ* 320, 171.

[62] Ayalon, 'Great Yāsa,' 119–20.

arbiter of *Sharīʿa* and *Siyāsa*, and the *Maḥkama*'s functions reflected this duality in the nature of the Sultan's rule.

It is important to appreciate the role of the *Siyāsa* under the Ottomans in the sense used by Lewis to interpret the function of the *ʿaskarī* class in the empire. The governor-general and his deputy-governor in each particular *sanjaq* maintained *de jure* control over those matters not covered specifically by Islamic law and which pertained specifically to the protection of civil order.

The jurisdiction of the military governor was thus parallel and complementary to that of the *mullā qāḍī* (chief judge). Under Ottoman law, both were theoretically independent within the realm of their own authority, but at the same time both were bound ultimately to uphold the authority of the Sultan, who epitomized both the *Sharīʿa* and the *Siyāsa*.[63] This balance between the power of the governor-general and the *mullā qāḍī* was theoretical. There was a constant tension, even struggle, over the preeminence of one over the other. While, in principle, the *mullā qāḍī* and the imperial treasurer (*māl daftardārı*) were independent of the governor-general, they required him to enforce the law and to provide for public security so that they could carry out their duties.[64] The *mullā qāḍī* had the right to petition the Sultan for support in case of a despotic governor-general, which support could, under ideal conditions, check the broad powers of this office-holder. However, the great distances separating the provinces from the Porte, and the governor-general's control over the military forces stationed in the area ensured his political dominance in the province. In the early nineteenth century, the *mullā qāḍī* was thus in a subservient position, having no recourse against the governor-general and his deputies except petitioning Istanbul for aid.

Moreover, the *mullā qāḍī* was appointed for short, one-year terms by the *Shaykh al-Islām*, which limited his knowledge of the locality, and may have weakened his concern for the public welfare. On the other hand, the short term would have freed him (or spared him)

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[63] In writing about the emergence of the official *ʿulamā'* hierarchy as the central religious institution of the Ottoman Empire, Madeline Zilfi has mentioned this case: "Around December of 1608, the Rumelia Chief Justice Hoca Sadeddinzade Abdülazız made an official complaint about the ceremonial precedence of provincial governors-general (*beylerbeyis*) over Chief Justices like himself. The Sultan issued an order establishing the Justices' precedence." Zilfi, *Politics of Piety*, 103.

[64] Inalcik, "Eyalet," 723.

from involvement in local politics, and may have resulted in greater fidelity to Ottoman legal norms. The administration of law under the Ottomans has often been characterized as venal, especially by the reformers of the *Tanzimat* period. However, we must consider the motives for such criticisms. The Porte had to justify its programs of centralization as well as to weed out corruption and abuses of power. As we review this period, therefore, we must be cautious. The *mullā qāḍī*'s character was as important as his training, and each individual ought to be judged on his own merits and for his own actions, instead of dismissing the entire system of law as corrupt.

The differentiation of the judicial role of the governor-general from that of the *mullā qāḍī* is central to understanding the administration of Jerusalem under both the Ottoman and Egyptian administrations. It must be added that the rural population sometimes adhered to tribal and customary law outside of the *Sharīʿa*, which in the case of Hebron, for example, was called the 'Law of Abraham.'[65] Nevertheless, agreements mediated outside of the *Maḥkama* were frequently recorded in the court registries as part of the legal record at the request of the parties involved. This was important because any such agreements would be verified and validated in the court by one of the judges, in accordance with the *Sharīʿa*'s rules of evidence, adding to their legal weight.[66] This role of the court as a notary was important in that it brought peasants and bedouin into the record.

The clear bifurcation of government under Muḥammad 'Alī into separate sectors, corresponding to military/political and religious/personal status respectively, would be the critical new element introduced by Khedival government. The institutionalization of two separate legal entities was made possible when the old conception of lawful government differentiated into two realms—*Sharīʿa* and *Siyāsa*—inherent in the Ottoman system, was rearticulated with the creation of two separate court systems: *Al-Maḥkama al-Sharʿiya* and *Al-Majlis*

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[65] James Finn, who lived in Jerusalem in the 1850s, said that the rural people "visit the towns as little as possible, and appeal as little as possible to the Turkish courts of law, for they have among themselves an ancient traditional code of law, which they designate 'the law of Abraham,' thus distinguished from the more modern code of the Koran." James Finn, *Stirring Times* (London: C. Kegan Paul and Co., 1878) I:216. This was an exaggeration: as will be shown below, rural people did use the *Sharīʿa* courts. See Mrs. [James] Finn, "Fellahin," 38–48, 72–87.

[66] For example, see *LCRJ* 321, 74.

al-Shūrā, the former hearing primarily personal status cases, and the latter commercial and administrative ones. The *Sharīʿa* court under the Khedival regime was permitted to follow Ottoman legal tradition by applying the *Qānūn*, Islamic law, and *ʿUrf*, so long as it did not affect the political, administrative, or material interests of Muḥammad ʿAlī. The clerical functions of the court would continue to operate, and all Khedival orders were sent to it for registration. The personnel of the court were ordered to publicize Khedival policies in their area, and to collect information as required by the regime. Thus Muḥammad ʿAlī fundamentally altered the governmental relationship of the *qāḍī* to the Sultan, mirroring his own rebellion against his sovereign.

The Muslims of Jerusalem

The effective removal of many of the income-producing villages and agricultural lands surrounding Jerusalem from taxation by the central government had had an enormous impact on the socioeconomic development of this region of the Ottoman Empire. So too did the exemption of the city's Muslim inhabitants (*ahālī*) from payment of the *mīrī* tax. Rather than developing an indigenous elite of provincial tax-farming notables (*aʿyān*) as in other parts of the empire, the economy of the hinterland of Jerusalem was in large part organized and managed by the administrators of the Imperial *awqāf*, all of whom were members of the class of Muslim scholars known as the *ʿulamā'*; by the provincial governor-general who held large parcels of land as *mālikāne* estates; and by the holders of *tīmār* land grants and their descendants.

This made the city of Jerusalem quite different from the city of Aleppo, for example, where the sense of urban identity was not bound up with legal privilege or political autonomy. Jerusalem was distinguished by its juridical status as one of Sunni Islam's three holy cities. The people of Jerusalem enjoyed a special sense of cultural identity that was institutionalized by their possession of special rights, grants, and privileges not typically enjoyed by other subjects of the Ottoman Empire.[67]

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[67] Marcus, *Eve of Modernity*, 27, 35, 337–9.

In other ways, however, Jerusalem was shaped by the same influences as other Ottoman cities. The values and behavior of the city's inhabitants were functions of their religious identity and their social and economic roles. It was a highly stratified society socially, although the barriers between the sexes and religious communities were porous enough for the business of commerce, as may be seen from sketches drawn by Western travelers observing all sorts of people selling goods in the city's markets.

There seems to have been no enormous wealth in the city, but there was great poverty and suffering. There were the poor, the *fuqarā'*, and the miserable, the *masākīn*, who were also exempted from paying the *mīrī* taxes under Ḥanafī law.[68]

By 1831, the Muslim population of Jerusalem numbered about four and a half thousand people.[69] The Muslims had a proud tradition of residency in the Holy City, tracing their origins in the city to its conquest by 'Umār in 638 and its reconquest from the Crusaders

[68] Cohen and Lewis, *Population and Revenue*, 16. Abu-Manneh points out that *fuqarā'* may refer to low-ranking *'ulamā'* as well as the poor.

[69] Ascertaining exact demographic statistics for Jerusalem in the first half of the nineteenth century is one of the most difficult and belabored tasks of scholars of Palestinian history. So far, the only published sources for this period are the observations and estimations of travelers and Western residents of the city. Justin McCarthy has proven how unreliable this type of estimate can be, but he only provides data beginning in 1868, considerably later than our period. See his *The Population of Palestine: Population Statistics of the Late Ottoman Period and the Mandate* (New York: Columbia University Press, 1990), 47. From the following tables, adapted from Ben-Arieh's *Jerusalem in the Nineteenth Century: The Old City* (New York: St. Martin's Press, 1984) we can gain only an imprecise idea of the general demographic makeup of the city on the basis of the estimates given by Western travelers. Also, cf. Ruth Kark and Michal Oren-Nordheim, *Jerusalem and Its Environs: Quarters, Neighborhoods, and Villages 1800–1948* (Jerusalem: Magnes Press, 2001), Table 1. These estimates should be used only for a general idea of the population, and more research in the Turkish archives on this period may augment our limited information. See Table 1.

Table 1. *Estimated Population Figures for Jerusalem 1800–1850*

I. Muslim Population (p. 131)

Year	Source	Number of Muslims
1806	Seetzen	4,000
1838	Robinson	4,500
1845	Tobler	4,500
	Schultz	4,500

by Ṣalāḥ al-Dīn al-Ayyūbī in 1187. The tombs of their eponymous forefathers still stand, memorializing the role of those warriors and validating the claims of their descendants. Under the Ottomans, these ancient claims were upheld, and from the ranks of these families came the elite of the Muslim community. The hierarchy of the Muslim community under Ottoman rule was determined partly by tradition and partly by Ottoman governmental practice. In Jerusalem, besides the Ottoman officials of *'askarī* rank in the city, there were

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Ben-Arieh summarizes his findings on Jerusalem's Muslim population for these years (p. 131):

1810	4,000	1850	5,400
1835	4,500	1860	6,000

II. *Christian Population* (p. 194)

	Year		
Church	1800	1835	1850
Greek	1,400	1,600	1,900
Greek Catholic	–	–	50
Roman Catholic	800	900	1,000
Armenian	500	520	500
Armenian Catholic	–	–	–
Coptic	50	–	100
Ethiopian	13	–	30
Syriac	11	–	20
Protestant			50
Total	2,774	3,020	3,650

III. *Jewish Population* (p. 278)

Year	Sephardim	Ashkenazim	Total
1800	2,200	50	2,250
1836	2,600	650	3,250
1840	3,500	1,500	5,000
1850	4,000	2,000	6,000

Compare this with Justin McCarthy's estimates for 1868–1869 Jerusalem (p. 47):

Muslims	1,025 households
Christians	738
Jews	630

Bear in mind the enormous demographic changes that occurred in Palestine during the years 1834–1868.

three local elite ranks—the *ashrāf*; other urban notables, the *aʿyān* and *wujūh*, who were influential members of the community included in the dissemination of governmental decrees and responsible for their implementation—and the *ʿulamāʾ*. Juridically, these privileged Muslims were known collectively as the *ahālī* of Jerusalem, and it was specifically this group that was exempted from taxation and who received salaries and stipends from the Porte.[70] They fulfilled the many functions required in the operation of the Islamic institutions of the city, including those of mosque preachers, prayer leaders, teachers, scribes, and managers of hospices and soup kitchens, and the like. In addition, just as the commercial classes performed an important role in Ottoman society, so too in Jerusalem. Artisans and producers of consumer goods paid taxes on their products. Important merchants, the *tujjār*, such as the Nashashibis, and other influential Muslims, were classed generally with the urban *aʿyān*, and were considered a vital part of the economy by the Porte as well as having political influence.

The Muslim inhabitants of the city of Jerusalem were exempted from both taxation and military service under Ottoman law, and as such, had enjoyed special status and privilege in the empire. The Jewish and Christian inhabitants of the city, as *dhimmī*s in accordance with Islamic law, were required to pay the *jizya* tax, which was used specifically towards financing the *Ḥajj* pilgrimage from Damascus, the major public *awqāf* of the Dome of the Rock and *al-Aqṣā* Mosque and *Khaṣṣekī Sulṭān*, and to support certain religious functionaries in Jerusalem. In addition, they paid the *mīrī* taxes due on some of the lands that they worked. Under the Ottomans, the *jizya* was collected from the *dhimmī*s either as a lump sum collected from an entire community (*maqṭuʿ*) or from individual adult males (*ʿala al-ruʾūs*). In the latter case, a quota was established for each community and collected as a single payment. According to Islamic law, the *jizya* was charged at three rates: high, intermediate, and low. In Jerusalem, the payment was set at the lowest rate per head—an amount equaling one gold piece. This revenue was sent to Damascus to support the *Ḥajj* caravan, with the exception of 85 gold pieces reserved for the *Waqf* of the Dome of the Rock.

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[70] Cohen, *Jewish Life*, 20–4, 204, 249–56.

The city of Jerusalem received a regular 'purse' (*ṣūrrat rūmīya*) from Istanbul in support of its foundations and the *ahālī*, which represented an important source of cash during difficult political and economic times.[71] The officials serving as administrators of Imperial *awqāf*, as well as other *ʿulamāʾ* and *ashrāf*, and the lowest ranks of the *ʿulamāʾ* of the city, received regular salaries, pensions and stipends from the Ottoman capital. In Jerusalem, most of the resident *ʿulamāʾ* came from the ranks of the *ashrāf*, with the notable exception of the Khālidīs, who never claimed sharifian descent, and the chief judge, who was appointed by the Porte from anywhere within the empire.[72] Together, the *ashrāf* and the *ʿulamāʾ* were known in Jerusalem and its neighboring towns as the '*afandiyāt*,' an Ottoman word denoting the clerical class.[73] Well-known families falling into this category included the Ḥusaynīs, the ʿAlamīs, the Khālidīs, the Abū Saʿūds, and the Dāūdī-Dajānīs.

Under Ottoman rule, Muslim society in Jerusalem had been well organized and defined. The leading *ʿulamāʾ* families competed for desirable appointments by participating in the Ottoman custom of purchasing offices, but this competition never became so divisive that actual fighting between rivals broke out in the streets. The most sought after appointments were those of the *muftī* and the *qāʾimmaqām naqīb al-ashrāf*. Within the court system there were other desirable posts: the chief clerk (*bāshkātib*) and the bailiff (*muḥdir basha*). On the administrative side, of course, were the deputy-governor (*mutasallim*), the commander of the garrison located in the citadel, and junior military officers. In addition, the chief engineer (*miʿmār pasha*) was called upon to inspect properties for the court and figured prominently in the city's affairs.

Outside of the court system and the military hierarchy both religious status and economic relations played important roles. First were the specifically Muslim institutions: mosques, theological colleges, hos-

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[71] Abdul-Karim Rafeq, "The Political History of Ottoman Jerusalem," in *Ottoman Jerusalem, The Living City: 1517–1917*, eds. Sylvia Auld and Robert Hillenbrand (London: Altajjir World of Islam Trust, 2000), 28.

[72] Schilcher, *Families in Politics*, 379.

[73] Abir, "Local Leadership," 292. See also ʿAdel Mannāʿ, 'Mered Naqib al-Ashrāf be-Yerushalayim 1703–1705,' *Cathedra* 53 (1989): 49–74, and Mannāʿ, "Moshlei Yerushalayim mi Bayt Farukh ve Yakhaseihem ʿim haBedouim," in *Perakim be-Toldot Yerushalayim: Be-Reshit ha-Tekufa ha-Othmanit* (*Jerusalem in the Early Modern Period*), ed. Amnon Cohen (Jerusalem: Yad Yizhaq Ben Zvi, 1979), 196–232.

pices, *Ṣūfī* lodges (*khānqāh*s and *zāwiya*s) and family and most importantly, Imperial *awqāf*, such as the Dajānī and ʿAsalī family *awqāf* and the *Khaṣṣekī Sulṭān Waqf*—all of which required custodians, supervisors, and other officials, such as muezzins and teachers who were drawn from the ranks of the *ashrāf*. This group also included those pensioners who received a regular stipend from the *ṣurra rūmiyā*, the 'purse' that came to Jerusalem on a regular basis from Istanbul (frequently called Constantinople in the *sijillāt*) in support of the *ashrāf*. The *naqīb al-ashrāf* in Istanbul, through the offices of his assistant in each major city, the *qā'immaqām naqīb al-ashrāf*, locally appointed by the *mullā qāḍī*, was responsible for keeping track of these descendants of the Prophet. The court administered the payment of the *ṣūrrat rūmiyā* throughout the Khedival period. The poor of the city, including women and orphans, also received a share of this income which was distributed to them in the form of food and clothing through the *Khaṣṣekī Sulṭān Waqf*.[74] In addition, a *ṣūrrat miṣriya* was sent every year from Cairo to the beneficiaries of the *Ghazī Sinān Pasha Waqf*, an important endowment which included lands throughout *Bilād al-Shām*.

Commerce defined the second major sector of the social landscape of Muslim Jerusalem.[75] Artisans were divided into guilds that were overseen by the court, which validated the appointment of guild masters according to local custom. The most important of these guilds in Jerusalem, and the only guild mentioned in the court archives of this period, was that of the goldsmiths. Other tradesmen offered specific goods or produce in the markets of the town, but this commerce was only mentioned in case of disputes, or when important transactions or agreements needed to be recorded. The agricultural marketplace encompassed a sizeable region, since trade affecting Jerusalem occurred as far away as Damascus, Cairo, and Istanbul, to say nothing of the many villages throughout the Provinces of Sidon and Damascus attached to Imperial *awqāf* administered in Jerusalem. In addition, trade with Europe was not insignificant, either. Unlike Cairo, for example, there is no evidence to suggest that the

[74] Amy Singer does not mention either the *ṣūrrat rūmiyā* or *ṣūrrat miṣriya* in her study *Ottoman Beneficence*.

[75] Amnon Cohen's *Guilds* provides a comprehensive survey of Jerusalem's guilds in the sixteenth century.

artisans of Jerusalem wielded political influence through their guilds or *Ṣūfī* brotherhoods.

Real estate was by far the most significant commercial sector of Jerusalem's economy documented in the court registers during the Khedival period. Muslims and non-Muslims recorded all real estate transactions in these registers, and, along with wills, marriage and divorce contracts, dealings in real estate have given rise to most of the available documents. Everyone, from the Ottoman *mullā qāḍī*, to the ranking members of Jerusalem's *'ulamā'*, and even to foreigners who came to reside or spend time in Jerusalem, recorded rental agreements, repairs or additions to existing buildings, and transfers of real estate with the court. Such transactions concerned properties in the city of Jerusalem and its outskirts, but also other places throughout *Bilād al-Shām*, and even as far away as Salonika or Istanbul. Legacies, especially those unclaimed or with no beneficiaries, and other cases which involved the *Bayt al-Māl al-Muslimīn*, or the public treasury, were also prominent.

Under the Ottomans, the elite of Jerusalem's Muslim community were part of a vast network of *'ulamā'* throughout the expanse of the empire. Jerusalem's *'ulamā'* maintained longtime scholarly and social contacts with their peers in Cairo.[76] Most important, however, were Jerusalem's governmental, cultural and social ties with Istanbul and the provincial capital, Damascus. The *'ulamā'* were expected to help the *mutasallim* to fulfill his duties by assisting with the administration of justice, maintaining the court registers, supervising the commercial life of the city, overseeing the functions of charitable institutions, and collecting taxes and fines in accordance with both the *Sharī'a* and the *Qānūn*.

While the *'ulamā'* may have been essentially bureaucrats, these men had the heady distinction of serving a most noble and honored purpose, that of preserving the physical monuments of Islam, as well as providing for the Muslim community's communal and spiritual well-being. Certainly there was corruption, bribery, and chicanery

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[76] Gabriel Baer, "Jerusalem Notables in Ottoman Cairo," and Uri M. Kupferschmidt, "Connections of the Palestinian 'Ulama with Egypt and Other Parts of the Ottoman Empire," in *Egypt and Palestine: A Millennium of Association*, eds. Amnon Cohen and Gabriel Baer (New York: St. Martin's Press, 1984), 167–89; 'Adel Mannā', 'Cultural Relations between Egyptian and Jerusalem 'Ulama in the Early Nineteenth Century,' *Asian and African Studies* 17 (1983): 139–52.

in the administration of these potentially lucrative Imperial *awqāf*. One must question, however, whether the frequent accusations made by Ottoman reformers against these servants of the Imperial *waqf* administration were not sometimes made simply to justify bureaucratic change. In the first half of the nineteenth century, the reformers aimed at centralizing Istanbul's control over the significant revenues of these *awqāf* and thereby removing them from the control of the local *'ulamā'*.[77] These attempts at reform were a part of the general effort of the Ottoman Sultan Maḥmūd II to extend direct control over Ottoman provinces and to diminish the autonomy of local groups.

The Rural Elites

Beyond *Jabal al-Quds* to the north was the important *sanjaq* of *Jabal Nabulus*. Distinct from the *afandiyāt* of Jerusalem were the *umarā'*, also known as the *aghawāt*, of the rural Nablus region. This group derived its status and privileges as holders of *tīmār*s or *ziʿāmet*s originally earned in return for military service to the Ottomans (hence the title *umarā'*, from *amīr*, meaning military commander). A *tīmār* was any land grant valued at less than 20,000 *akçe*, and a *ziʿāmet* was one valued at 20–100,000 *akçe*.[78] In the nineteenth century these leaders were commonly referred to as *shaykh*s. In both the *sanjaq* of Jerusalem and the *sanjaq* of Nablus, there were three distinct military groups employed by the Ottomans. First, there were officials like the *mutasallim*, employed by the governor and members of his standing household army. In Jerusalem, these were usually *ajnabī*—foreign—coming from anywhere in the empire outside of the city.[79] In Nablus, however, these *mutasallim*s were frequently members of the local *umarā'*, who were appointed because of their close relationships to the rival *wālī*s of Damascus and Sidon. Indeed, the struggles of those provincial governors-general were mirrored in the bloody feuds for which the

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[77] On reforms of *waqf* administration during the nineteenth century, see the detailed analysis by Barnes, *Foundations*, 102–17. The *sijillāt* did not reveal the judges' wages and fees assessed at the settlement of cases, and so the question of corruption remains an open one.

[78] Inalcik, *The Ottoman Empire*, 226. Poliak, *Feudalism*, 47–52.

[79] See *LCRJ* 322, 66–7 and 206.

Nablus area is renowned. These Nabulsi families formed the second *ʿaskarī* group, which was composed of local members of the *umarāʾ* class residing in and around Jerusalem and Nablus who did not trace their origins to the city; rather, at least some of them were the descendants of the military groups sent to Palestine and Syria by the Ottomans in the early days of the conquest, had Turkish roots, and who had settled in the city or its environs.[80] Among these families numbered the Ṭūqāns, Nimrs, Jarrārs, ʿAsalīs, Jaʿūnīs, and Ghazīs. As such, they had different privileges and obligations under Ottoman law, which derived from their relationship to the *tīmār* system. Many from this group intermarried with the local Muslim population and had become merchants and artisans in addition to retaining the benefits accruing to them as landholders possessing Imperial rights, some of which passed from fathers to sons. These *shaykh*s were responsible for collecting the *mīrī* taxes in their *nāḥiya* and serving as guards on the *Ḥajj* caravan on behalf of the provincial governor-general, and for calling up the *raʿāyā* in their districts for military duty as required by the provincial governor-general.

Following the pattern elsewhere in the Ottoman Empire, *tīmār* holdings had lapsed by the nineteenth century, and had begun to be redistributed in the form of *mālikāne* or *awqāf*. Whether they held *tīmār*s or *mālikāne* lands, the rural leaders formed an elite—local Muslim landholders collecting taxes and revenue, in cash or in kind, from villagers living in their estates.[81] Among this group were the ʿAbd al-Hādīs and the Ṭūqāns, the Nimrs, and the Jarrārs of the Nablus region, whose ferocious clan wars have overshadowed early-nineteenth-century Palestinian history. The idea of a rigid separation between the urban *afandiyāt* of Jerusalem and the rural *umarāʾ* of Nablus has been widely accepted by historians, and has befuddled the analysis of the confusing Qays and Yaman rivalry.[82] Understanding

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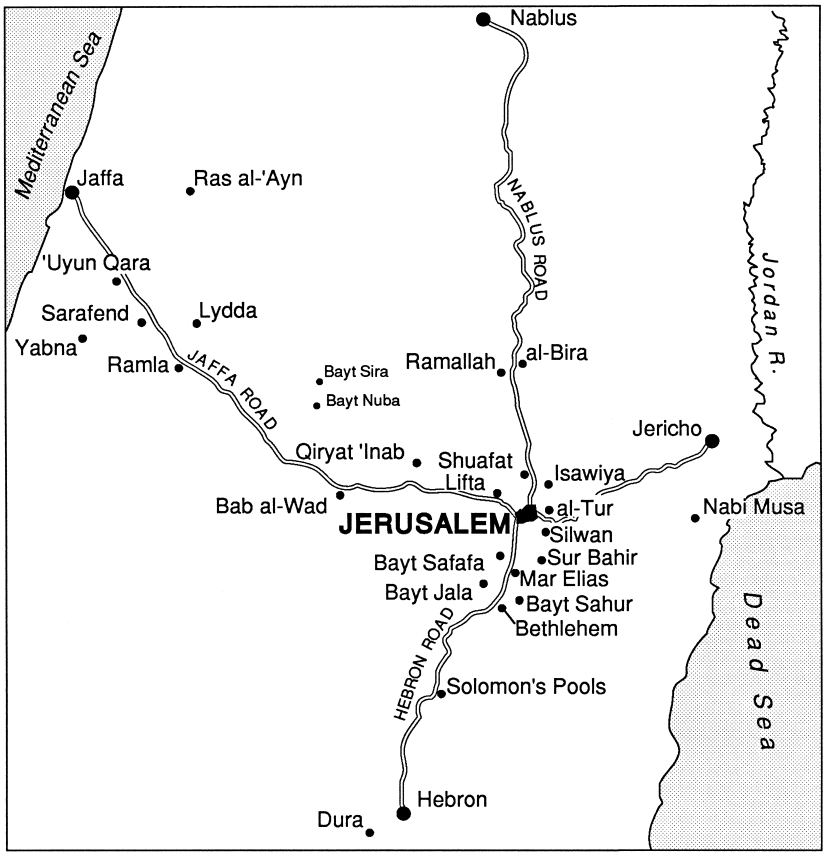
[80] Abir, "Local Leadership," 284–310; Doumani, *Rediscovering Palestine*, 16–53.

[81] Evidence in the *sijillāt* and secondary sources support Zilfi's contention that by the end of the seventeenth century, the Porte had succeeded to a large extent in assuring that the provincial cavalry would succumb to the forces of centralization by increasing the number of standing corps, and distributing vacant *tīmār* lands to central government officials in the form of *mālikāne*s. Zilfi, *Politics of Piety*, 109. The struggle of the local *umarāʾ* against the provincial governors-general can be understood in this context.

[82] The chronicle of Ihsan al-Nimr, *Tāʾrīkh Jabal Nāblus waʾl-Balqāʾ*, 2 vols. (Nablus: n.p., 1962) and the reports of James Finn are the main sources for the study of these wars. Their bias against the *afandiyāt* resulted in a rigid historiographical separation of the urban and rural groups in Palestine, and has flawed the interpreta-

the distinctions and the linkages between the urban and rural elites in Palestine is critical to our analysis of the Khedival period. The two groups functioned in different ways as a part of the Ottoman government, but they had shared interests in both rural and urban



Map 3. Towns and villages named in the text.

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tion of the area under Ottoman rule. For example, see Abir, "Local Leadership," 284–312; Miriam Hoexter, 'The Role of the Qays and Yaman Factions in Local Political Divisions,' *Asian and African Studies* 9 (1973): 249–311; and Gerber, *Social Origins*, 81. See Mannāʿ, "Sancak of Jerusalem," for a more detailed treatment of these groups based on the Islamic Court records. Abu-Manneh also has accepted that general line of thinking, writing "we can assume that the interest of [the *afandiyāt*] was mainly confined to the city." 'Jerusalem in the Tanzimat Period,' 3. Jane Hathaway's study *A Tale of Two Factions: Myth, Memory, and Identity in Ottoman Egypt and Yemen* (Albany: State University of New York Press, 2003) sheds considerable light on the subject.

affairs. The *afandiyāt* had concrete interests in the rural economy as administrators of Imperial and family *awqāf*, and therefore had important ties with the rural *umarā'*.

In addition to the *umarā'*, a third group had been given special duties under the Ottomans. These were rural groups, including the bedouin. The Abū Ghūsh family, based in a mountain fortress near *Qaryat al-'Ināb*, in particular, was given the right by the central government to collect and keep the *ṣūrrat āmāna*—a tax on travelers on the road from Jaffa to Jerusalem—in return for safeguarding the security of that important thoroughfare. However, by 1832 the Abū Ghūshes had so badly abused this privilege, and had developed such a fearsome reputation for banditry among the many pilgrims and travelers, both Ottoman and Western, that Ibrāhīm Pasha immediately revoked it upon taking control of the area.[83]

Along with the Abū Ghūshes, bedouin groups were assigned special transport and security duties by the Porte along the highways between remote outposts and villages. As holders of sultanic certificates granting them the right to perform these duties, they received payment in cash for these services from the provincial government. By the late eighteenth century, the provincial governors-general frequently had to pay potential raiders off so that they would not molest caravans and travelers. Nevertheless, travel in the southern reaches of the Province of Damascus was dangerous apart from the relative security provided by the pilgrimage caravan to Cairo and Mecca. Only the strong or the foolhardy ventured outside of the fortified city.

The Productive Classes: The Raʿāyā

Beyond the walls of Jerusalem lay the scattered agricultural villages governed by the *umarā'*. The inhabitants of these villages produced the revenues, in tax and in kind, upon which the local economy depended. The villagers made ready use of the courts to press their claims against one another and against local officials. They regis-

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[83] Asad Jibrail Rustum, *The Royal Archives of Egypt and The Disturbances in Palestine* (Beirut: American University Press, 1938), 22. See also Cengiz Örhonlu, *Osmanlı Imparatorluğunda Derbend Teşkilatı* (Istanbul: n.p., 1967) for a general treatment of security of travel, and 25 ff. for Palestine. See also Abu-Manneh's 'Jerusalem in the Tanzimat Period,' 5.

tered transactions, wills, marriages, divorces, and agreements in the court, and so were tied to the city though they lived in its hinterland. These villages, built of stone structures of one or two stories, were clustered together and surrounded by the fields, pastures, and orchards which produced the vegetables, cotton, grain, olives, fodder, sheep, wood and fruit, and the textiles, implements, religious items, and soap marketed in Jerusalem and throughout the region.

The presence of the peasants in most historical accounts is felt but often poorly understood. Historians have made significant headway in recent years by utilizing Ottoman archives and the Islamic Court records to shed light on rural society.[84] In the next chapters, the role of the peasantry in the political and economic life of Jerusalem is redefined in relationship to the elites governing the local and Imperial centers. The *raʿāyā* prove themselves to be anything but sheep to be shorn; instead they emerge as savvy and determined to protect their interests in the face of those who would deny them their rights under Ottoman law.

On Christians and Jews in the Ottoman Period

Europeans saw Muslim social prejudice against Christians and Jews as political oppression. The earliest European travelers in the Ottoman Empire, visiting provinces which were primarily Christian, assumed that the term *raʿāyā* referred to the Christian and Jewish minorities in the empire, and not to the entire subject class of taxpayers, including the Muslims who made up the majority. Under Ottoman law, however, Christians and Jews were organized into their own autonomous communities, whose affairs were governed by their own religious leaders and courts, as were the Muslims. Individuals were identified by their communities, and the special taxes assessed upon Jews and Christians in accordance with Islamic law were collected by the particular community. The synagogue, church, and mosque in each locale was not only a place of worship, it was the community center. Tax records were kept by identifying the individuals attending their community's house of worship, and were collected

[84] Most notably, see Barkey, *Bandits and Bureaucrats*; Singer, *Peasants*; Dick Douwes, *The Ottomans in Syria: A History of Justice and Oppression* (New York: I. B. Tauris, 2000), and Doumani, *Rediscovering Palestine.*

from the entire community at tax time. Not knowing much about how the entire empire was administered, the Europeans assumed that the Ottoman government was *de jure* oppressing Jews and Christians. This was especially the case in Jerusalem, where Europeans were concerned particularly with the welfare of those groups, for both humanitarian and political reasons. These Europeans showed little interest in how the Muslim community itself was governed.

By 1813, Europeans commonly accepted the notion of 'rayah' as defined by the Oxford English Dictionary: "a non-Muhammadan subject of the Sultan of Turkey, subject to the payment of the poll tax."[85] Thus, in the popular but inaccurate work *The Ottoman Centuries: The Rise and Fall of the Turkish Empire* by Lord Kinross, the term 'rayas' refers only to religious minorities.[86] Even the glossary of such an important reference for Middle Eastern Studies as Jere Bacharach's *A Near East Studies Handbook* states that "[i]n the Ottoman Empire it initially meant all non-Osmanli, but eventually came to refer only to non-Muslim taxpayers."[87] The documents that I have examined in the archives of the Islamic Court of Jerusalem disprove this definition, and shows that it was in the key years between 1834 and 1838 that the definition of the socioeconomic divisions in Jerusalem underwent fundamental change in administrative usage.

To analyze the issue of Muslim-Jewish relations in the city of Jerusalem during this period, recent interpretations of the meanings of the terms *raʿāyā* and *millet* have been used to interpret the changing relationship between these communities during the period between 1834 and 1839. The dynamics of the Khedival period resulted in the reorganization of the socioeconomic framework of the empire under the *Tanzimat*, when the concepts of *ʿaskerī* and *raʿāyā* were replaced with a new formulation of the Ottoman conception of the classification *millet.* That term's usage had evolved under the Ottomans from the sense of a 'religious community,' applicable to Muslims and *dhimmī*s, to the sense of "an empire-wide corporation . . . i.e. as a religious community holding the same status throughout the empire and

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[85] Lewis, *Political Language*, 61–2.

[86] Lord Kinross, *The Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York: Morrow Quill Paperbacks, 1977), 112.

[87] Jere Bacharach, *A Near East Studies Handbook*, rev. ed. (Seattle: University of Washington Press, 1976), 108.

as such deserving the same protection everywhere."[88] Indeed, even *musta'mīn*s, or foreigners (*harbī*s) who under the Capitulations were permitted certain commercial privileges, were classified as constituting *millet*s, along with the non-Muslim *raʿāyā* of the Ottoman Empire.

There are many excellent works on the question of religious minorities in the Middle East.[89] Here, we are concerned with the Muslim community. Nevertheless, it is important to set forth a context to understand how the religious minorities in *Bilād al-Shām* related to the Muslim majority. Although the Ottoman system for governing religious minorities began evolving as early as the fifteenth century, important developments regarding their organization in relationship to the state began in the 1830s, shortly before the *Tanzimat* reforms of 1839. The idea of this important process was to dilute religious distinctions within the empire. The significance of the effort to change the relationship of *dhimmī* to Muslim by making all religions equal is undeniable. However, there were unintended consequences for Ottoman society. On a societal level these reforms strengthened communal identities as other factors came into play. Some minorities began to seek protection from the consular representatives of Western states who also sought to use these relationships to deepen their footholds in the empire. This was particularly true of the Jewish community, which sought protection from Great Britain, and the Greek Orthodox community, which found it in Russia. This development was mirrored within the Muslim community, which sought to protect its privileges within a rapidly changing social and political environment.

Thus, while the Ottoman state attempted to counteract the appeal of ethnic and cultural nationalism in the Balkans by creating a common identity based on the notion of an Ottoman citizen, to these communities themselves the Ottoman policy of institutionalizing *millets* as political units overshadowed their recognition of the political rights of individual citizens. While the Porte may have been able to conceive of an Ottoman identity, the minority communities themselves were either unwilling or unable to redefine themselves vis-à-vis the state.

Although the Balkans may have been the foremost problem area from the Porte's perspective, the situation in Syria was of similar

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[88] M. O. H. Ursinus, "Millet," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).
[89] In particular see Masters, *Christians and Jews*.

concern, and European interests in the welfare of the non-Muslims living in Jerusalem began to affect the political climate there. In 1835, an Ottoman order regularizing "the position of the Jewish community . . . extended, for the first time, official recognition to a Haham Başi [*sic*]" and used the term "*millet*" to describe the Jewish community.[90] As the privileges of subject (*raʿāyā*) and non-subject (*musta'mīn*) began to merge, it became necessary for the terminology to change. Since it was the *dhimmī*s—non-Muslim subjects of the empire—who were merging with the *musta'mīn*s—Europeans residing in the empire, with rights protected by treaty, it is logical that the phenomenon of the *millet* manifested itself differently than the Ottomans had hoped. Rather than creating an Ottomanism that would subsume the differences among Ottoman citizens, non-Muslims began to enjoy new privileges by virtue of their linkages with the *musta'mīn*s, while the Muslim community continued to lose its primacy. The new dignities enjoyed by non-Muslims ameliorated their formal subjugation to Islam as *ahl al-dhimma*. In this way the centralizing reforms of the nineteenth century privileged religion, making it again a force in politics.[91]

This process was reinforced by the emergence of the idea of consular 'protection' of Ottoman *raʿāyā* which ultimately changed the entire political position of the Jews of Jerusalem, who increasingly came under the protection of the British consulate in the second half of the nineteenth century.[92] As the terms *raʿāyā* and *ʿaskerī* were dropped for socioeconomic categories during the *Tanzimat* period, the term *millet* came to replace them, distinguishing the various groups not on the basis of their economic and social functions in the empire, but on the basis of religious affiliation, which ultimately evolved into a term connoting political sovereignty. This undoubtedly resulted in large part from the case of Serbs, who had "forfeited the protection which had been granted to them and lost their *dhimmī* status" and

[90] Benjamin Braude and Bernard Lewis, *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society* (New York: Holmes and Meier Publications, Inc., 1982), 73; also B. Lewis, *The Jews of Islam* (Princeton: Princeton University Press, 1984), 125–6. The term '*millet*' appears in the plural form (*milāl*) in the Khedival order regarding dowers. *LCRJ* 319, 80–1.

[91] F. Buhl and C. E. Bosworth, "Milla," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

[92] Halil Inalcik, "Imtiyāzāt," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

had become known as a "sovereign nation in the enemy's territory."[93] It is within this context that I will interpret Muslim-Jewish relations in Jerusalem here.

During the 1830s, the presence of Western interests in Palestine was expanding. One of the manifestations of that presence was the immigration of European Jews (Ashkenazis) into Jerusalem. Some of these immigrants came not as simple pilgrims, but as entrepreneurs interested in finding commercial opportunities in Syria.

In this study, the existence and identity of social groups have emerged as mutable concepts transformed by changing circumstances. This is nowhere more clear than with the idea of *millet* in the Jerusalem of the late 1830s. As the privileges of Ottoman subjects and non-subjects began to merge, the former social structure of the city began to be overturned.

The growing presence of foreigners (*musta'mīn*s), in the persons of consular officials representing Western political interests and Western immigrants looking for commercial opportunities in Syria during the Muḥammad ʿAlī period, changed the dynamics that had regulated minority relations in Jerusalem since the beginning of Ottoman rule in 1517. Western observers in the nineteenth century, for both religious and political reasons, analyzed Syrian society along religious lines, focusing upon the position of religious communities as oppressed minorities. The Ottomans themselves, according to Faroqhi, began to use the term *raʿāyā* to mean the Christian and Jewish communities of the empire sometime around 1800, obfuscating the original sense of the word, with its reference to all productive, taxpaying residents of the empire, Muslim, Jewish and Christian. During the period under study, the people of Jerusalem and *Bilād al-Shām* suffered from one great loss: that of the advocacy and protection of a legal system aimed at preserving justice for the welfare of the entire community. Despite social inequities based upon concepts of culture and religious superiority, there was room in the Ottoman state for minority opinions, because under Ḥanafī law, Jewish and Christian traditions shared in the acceptance of the same universally valid natural order, divinely created. This is in marked contrast to the Wahhabi doctrine which the Ottomans extirpated in Arabia during the time covered in this study.

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[93] F. Buhl and C. E. Bosworth, "Milla," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

By pressing for 'equal rights' for the communities that they sought to protect from Muslim 'despotism,' the Western powers began to separate the Jewish and Christian minorities from the Muslim majority politically. They did not emphasize that all of the Ottoman *raʿāyā*—Christian, Jewish, and Muslim—could have benefited from the extension of political rights: protection from overtaxation, preservation of property, and the right to have their interests represented in the government. Yet the Ottomans did realize that, and with the 1839 Rescript of Gülhane they accorded all subjects equal rights by abolishing both the *ʿaskerī* and the *raʿāyā* classes. In so doing the Ottomans followed the same logic that propelled Muḥammad ʿAlī: increasing the potential of the state by encouraging commercial expansion in all sectors of the economy.

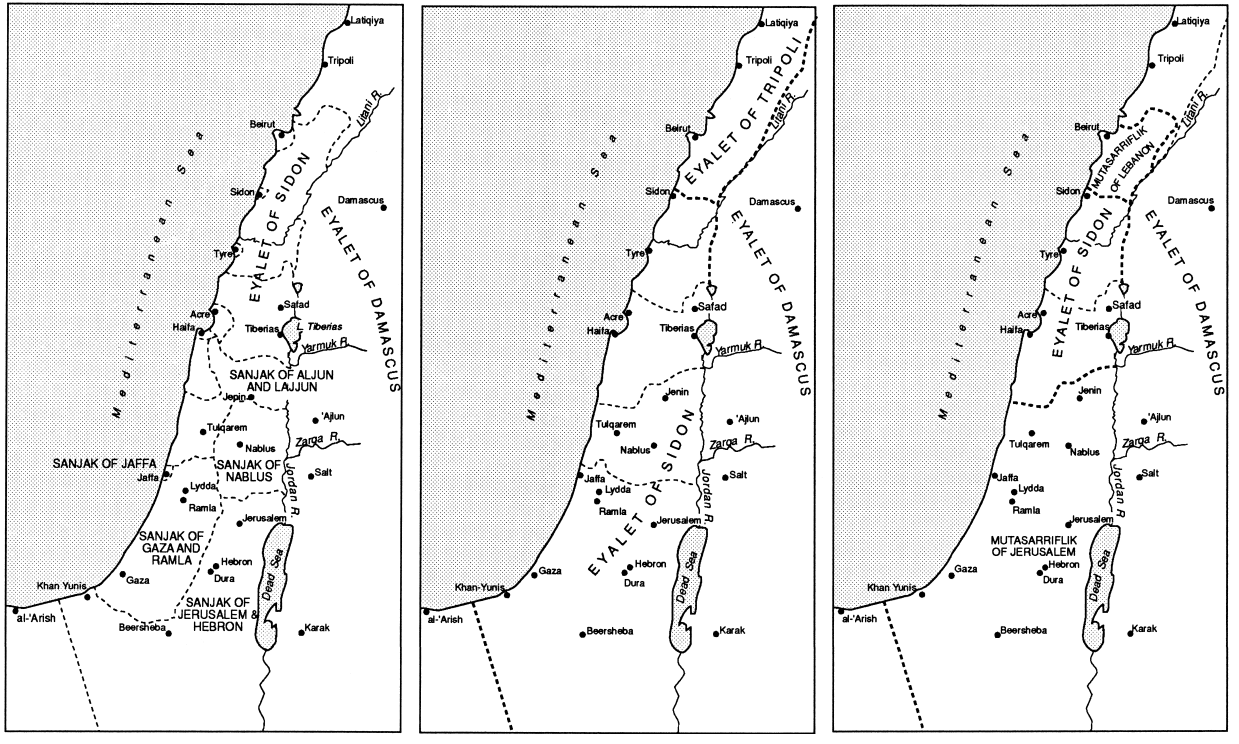
In articulating an interpretation of the Ottoman conceptions of law and administration, I have identified the sources and nature of political authority within the empire. At the summit of the system, the Sultan-Caliph epitomized both the *Sharīʿa* and the *Siyāsa*. In delegating his authority to the persons of the governor-general and the chief judge, the Sultan governed widespread territories by creating mirror images of the Porte in each provincial capital, centering upon the *Maḥkama*, the Islamic Court, where the decisions and decrees of the Sultan were issued and enforced.

Jerusalem's position as a part of the Ottoman Empire, with its special relationship with the sacred precincts of Islam, Mecca and Medina, and to the annual pilgrimage, the *Ḥajj*, imbued its political culture with a unique character, and more importantly, with unique protections. Nonetheless under the Ottomans, Mecca and Medina overshadowed Jerusalem religiously, politically, institutionally, and bureaucratically.

The urban elite of Jerusalem and the rural elite of the countryside performed an integral function of government in the Ottoman provincial system. While their roles differed, both groups derived their status, income, and identity from their relationship to the Porte. Both elites participated in the rural economy by their role in administering *awqāf* and *tīmār*s. The subjects of the Sultan supported the machinery of the state by paying *mīrī* and *jizya* taxes, performing services to the state, and supplying goods and produce to the army. These subjects would join the entourages of the local *umarā'*, becoming involved in local and regional political conflict.

The economic role of the *ʿulamāʾ* of Jerusalem, as administrators of the Imperial *awqāf* throughout the region with all of the agricultural lands linked to these foundations, integrated the economy of the city with that of the surrounding rural areas. Some parcels of land were apportioned partly to a *tīmār* and partly to a *waqf*, and this, too, brought the *afandiyāt* into close contact with the *raʿāyā* and the *umarāʾ*. The role of the *afandiyāt* was thus of far greater significance than has been previously recognized. It was they, and not the provincial governors-general and their subordinates, who controlled the economic surplus produced by the Imperial *awqāf* throughout the region, providing them with an important political role as well.

Conditions for instability and change were not generated only from the center, Istanbul, or by external powers. The Porte had to deal with the dynamics of its provincial administration in Egypt and Syria, where there existed opportunities for increased autonomy from Istanbul. The political leaders in the Arab provinces of the Ottoman Empire had benefited from its increasing decentralization. Let us now turn to how these processes would play out under Muḥammad ʿAlī.



i. 1830 **ii. 1832** **iii. 1842**

Map 4. Administrative divisions of southwestern Syria in 1830, 1832, and 1842.

CHAPTER THREE

THE INVASION OF JERUSALEM: 1831

In 1826 the Ottoman Sultan Maḥmūd II decreed the reorganization of the Ottoman armies. He ordered that *tīmār* holders in the *sanjaq*s of Jerusalem and Nablus were to be the only ones who would support the governor-general of Damascus in his role as commander of the pilgrimage caravan. The rest of the *tīmār* holders in the Provinces of Damascus and Sidon would thenceforward owe military service directly to the Sultan, and serve wherever he required them throughout the empire. He therefore requested that the governor-general of Damascus investigate the status of the *tīmār*s in his province, and organize the *'askarī* forces for the New Order.[1]

The race to military and political reform within the empire colored the implementation of new practices and policies of this period. It was often remarked by contemporary observers that Muḥammad 'Alī's troops were westernized, wearing tight-fitting trousers, and carrying new weapons, which offended the sensibilities of the Muslims of Syria.[2] It must be remembered that the officers of the Sultan's New Order initiated the same changes. Even the ostensibly arch-conservative, anti-Western 'Abdullāh Pasha, *Wālī* of the Province of Sidon and headquartered in Acre, had recruited troops for the Sultan's new army, and had himself donned the European-style uniforms. Indeed, it was Russian alarm at the Sultan's own military reforms that had decided their course of war against the Ottomans which ended with the Treaty of Adrianople in 1829. The Sultan was determined to bring to fruition the reform plans first proposed by Selim III, and had even sent a request to Muḥammad 'Alī in 1826 for twelve military instructors to help train the soldiers of the New

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[1] See my 'Mehmed Ali as Mutinous Khedive: The Roots of Rebellion,' *International Journal of Turkish Studies* 8 (2002): 115–28.

[2] Mordechai Abir, in his analysis of the Rebellion of 1834 and the rule of Ibrāhīm Pasha, emphasized that it was this Western form of dress, even the cruciform shape of the new swords, that contributed to the Muslim rejection of Egyptian rule. Abir, "Local Leadership," 303.

Order.[3] This request for aid was boldly refused by the *wālī*, an ominous signal that trouble between sovereign and servant was imminent. With Muḥammad ʿAlī's battle-hardened, technically superior army no longer engaged in Greece, the only question that remained was where he would deploy it next. The answer was clear: Syria.

In 1827, ʿAbdullāh Pasha had been granted the authority to rule the Province of Tripoli, partly in reward for his success in putting down the Bethlehem Tax Rebellion of 1825–1826.[4] During this time, the Porte chose to strengthen him in his capital of Acre to block an increasingly likely invasion of Syria by Muḥammad ʿAlī. Faced with the Russian threat and the aftereffects of the Greek revolt, the Porte hoped to use the strong fortifications of Acre to stop the Egyptian army.[5] It was for this military purpose that ʿAbdullāh Pasha's power was increased, not because he was more successful in implementing reforms in the region than the governor-general of Damascus.[6] In response to the Sultan's orders concerning the reorganization of the Ottoman military, ʿAbdullāh Pasha wrote to his *mutasallim* in Jerusalem on 26 August 1831, asking him to ascertain how many of the eighty-two *tīmār*s in the *sanjaq* were vacant in the years 1245 and 1246 (1829–1830).[7]

In a further attempt to strengthen the government of Damascus, the Porte had appointed a former Grand Vizier, ʿAbd al-Raūf Pasha, to the post of *wālī* in 1828. As part of the general reforms of the empire, and in answer to the increased need for security in the Provinces of Damascus and Sidon, the authorities asked both the *mutasallim* and local community leaders to take measures to strictly control travel in and out of the district. A traveler would be permitted to pass only if he had the proper travel document (*tadhkira*). In particular, the authorities sought to stop the desertion of soldiers, the growing flood of refugees from Egypt, and the organization of rebel groups.

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[3] Ma'oz, *Ottoman Reform*, 11.

[4] For more detail see my *Sacred Law in the Holy City* (Ph.D. diss, University of Chicago, 1993), 84–104.

[5] Asad Jibrail Rustum, *Notes on Akka and its Defences Under Ibrahim Pasha* (paper prepared for the Archaeological Congress of Syria and Palestine, 1926).

[6] Mannāʿ, "Sancak of Jerusalem," 68 n. 231. Mannāʿ notes that Mordechai Abir, in his article "Local Leadership," thought that ʿAbdullāh Pasha was strengthened for the latter reason.

[7] See the following: Rustum, *Usul*, I:36–7, doc. No. 9, which is *LCRJ* 315, 71–2 and *LCRJ* 315, 70–1 (Turkish).

This *wālī* would stay in office until 1831, when Ibrāhīm Pasha's army swept through the Province of Damascus.

The suppression of the Greek rebellion, the conclusion of peace with Russia, and the reforms of the New Order were all costly and the Porte needed funds to build up the Sultan's armies and implement his policies. Provincial leaders were asked to procure these funds. In 1829, the *wālī* of Damascus was ordered to collect the balance of his predecessor's treasury—all of the cash and other valuables that the latter had possessed. Initially, Jerusalem was to contribute forty thousand *qurūsh*, and was then called upon to find an additional sixty thousand as her share of the total two hundred thousand *qurūsh* currently owed by the Province of Damascus. However, it was ʿAbdullāh Pasha who was asked to collect these funds from Jerusalem and to send them directly to Istanbul. The Porte turned to the governor-general of Sidon and Tripoli, even though administratively Jerusalem was still a part of the Province of Damascus: from past experience the Porte recognized that only in this way might the money actually arrive in Istanbul.

Sultan Maḥmūd II ordered the governor-general of Damascus to begin mobilizing the new army, now called the 'The Victorious Muhammadan Soldiers,' in earnest; about one thousand men between the ages of eighteen and twenty were to be conscripted from the Province of Damascus and sent to Istanbul. The number of conscripts was divided among the districts of the Province of Damascus, with forty men called up from the district of Jerusalem. This effort produced strong opposition in Nablus and Jerusalem. Even ʿAbdullāh Pasha's soldiers garrisoned in Jerusalem rebelled, but the *mutasallim* was able to calm them. Some fled to the coastal towns of Jaffa and Gaza. ʿAbdullāh Pasha ordered the authorities in the two towns to detain and punish these fugitives. Nevertheless, because of the great popular opposition in the Province of Damascus to the order of conscription, the Sultan withdrew it and asked for a cash payment instead (*badal*). A total of 17,500 *qurūsh* fell to Jerusalem's share.[8]

As a result of the attempt to conscript soldiers into the new Ottoman army and the imposition of new financial levies in 1829, a rebellion broke out in the district of Nablus in a place near Sanūr,

[8] Mannāʿ, 41. See also ʿAref al-ʿAref, *Al-Mufaṣṣal fī Tā'rīkh al-Quds*, 2d ed. (Jerusalem: Al-Mu'arraf Press, 1986), 276.

the Ṭūqān clan's former stronghold. Once again ʿAbdullāh Pasha was asked to quell the rebellion, and turned to Bashīr al-Shihāb, Lord of Mount Lebanon, for help. The authorities in Istanbul determined to make ʿAbdullāh Pasha responsible for the *sanjaq*s of Nablus and Jerusalem as the menace of invasion loomed over them. Bashīr al-Shihāb sent troops to join ʿAbdullāh Pasha's force garrisoned in the rebuilt fortress of Sanūr. Eventually ʿAbdullāh Pasha succeeded by combining a show of military force with astute politics. He appointed ʿAbdullāh al-Jarrār *mutasallim* of Nablus and quickly brought the rebellion to an end.

The growing tide of refugees fleeing from Egypt due to the corvée and especially conscription into Muḥammad ʿAlī's army soon became a serious issue between Muḥammad ʿAlī Pasha and ʿAbdullāh Pasha. The consequences of lifetime conscription for the peasants of Egypt were terribly serious. They were cut off from their families and clans, they were "badly paid, miserably fed, and led by Turkish officers who despised them." In Egypt, these conditions had prompted army mutinies in 1827 and 1832. Peasants responded to conscription and the corvée in three ways: "rebelling, fleeing, and mutilating themselves." The same would occur later in Syria during the Egyptian occupation. About two thousand Egyptian families fled to Syria with their flocks where ʿAbdullāh Pasha granted them refuge, against the clear orders of the Ottoman authorities.[9] Reportedly, "several thousand . . . crossed the Egyptian frontier and took refuge in the districts of Jerusalem, Nablus, and Gaza." Discovering that "the shaykhs of Southern Palestine were making it difficult for the refugees to go back to Egypt," Muḥammad ʿAlī "threatened to send his own agents to Palestine to fetch the refugees as well as the village shaykhs themselves." ʿAbdullāh Pasha replied by assuring Muḥammad ʿAlī that "he would do his best to send all the refugees back to Egypt," but "that former practice and precedent dictated non-interference, and

[9] Alan R. Richards, "Primitive Accumulation in Egypt: 1798–1882," in *The Ottoman Empire and the World-Economy*, ed. Huri Islamoğlu-Inan (Cambridge: Cambridge University Press, 1987), 218–9. According to Helen Rivlin, conscription in Egypt was permanent, whereas Lawson, without citing a source, asserts that initially it was for a period of three years. Helen Rivlin, *The Agricultural Policy of Muḥammad ʿAlī in Egypt* (Cambridge: Harvard University Press, 1961), 202. See Lawson, *Social Origins*, 103 and 193 n. 113. Lawson does not mention conscription and the fleeing Egyptian *fallāḥūn* into ʿAbdullāh Pasha's territory as a *casus belli* in 1831.

the Sublime Porte would not be pleased to see one provincial governor intermeddle in the affairs of another."[10]

Under Ottoman administrative law, it was illegal for the *raʿāyā* to leave their settlements against the will of the holder of the *muqāṭaʿa*, who had the right to take up to fifteen years to compel their return, with the consent of a *qāḍī*.[11] Muḥammad ʿAlī cited ʿAbdullāh Pasha's decision to protect these refugees to justify his invasion of Syria. He also complained that ʿAbdullāh was "levying exactions on Egyptian merchants."[12]

Muḥammad ʿAlī had officially voiced an interest in governing the Syrian provinces as early as 1822, immediately after his successes in the Hijaz. In return for his services to the Porte in Greece from 1825 to 1827, he had again requested the governorship of Syria, but the Porte had allowed him only that of Crete. After the naval rout of the Ottoman forces at Navarino (20 October 1827), Muḥammad ʿAlī became convinced that the Sultan simply could not steer a successful course. Muḥammad ʿAlī allowed himself to be convinced by the English in 1828 to withdraw his forces, commanded by his son Ibrāhīm, from the Morea rather than risk their annihilation. After all, Ibrāhīm Pasha had already lost fifty-three ships and six thousand men in the Battle of Navarino. He withdrew the remainder of his forces on 9 August 1828, and in so doing went against the Sultan's orders. Father and son had become renegades.[13]

In 1829, the Sultan appointed Ibrāhīm Pasha, and not his father Muḥammad ʿAlī, as the governor-general of Mecca, "the most honourable provincial post in the Empire." The next year, "the Sultan had

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[10] Rustum, *Origins*, 26.

[11] Inalcik, *The Ottoman Empire*, 111, where he also notes that under the classical *tīmār* system the only resort available to a fugitive peasant was to become an urban craftsman—in which case he could pay his former *muqāṭaʿaji* the *çift bozan akçesi*—or 'compensation tax'—and gain his freedom. It is possible that this may still have been applied in the nineteenth century. See also Amy Singer, 'Peasant Migration: Law and Practice in Early Ottoman Palestine,' *New Perspectives on Turkey* 8 (1992): 49–65.

[12] Henry Dodwell, *The Founder of Modern Egypt: A Study of Muhammad 'Ali* (Cambridge: Cambridge University Press, 1931), 108. Rustum, *Origins*, 25, 31. The seriousness of this factor can be better appreciated following Fred Lawson's evaluation of the relationship between Muḥammad ʿAlī and the *tujjār* associated with his regime. See his *Social Origins*, passim.

[13] S. N. Spyridon, ed., *Annals of Palestine: 1821–1841—A Manuscript by the Monk Neophytus of Cyprus* (Jerusalem: n.p., 1938), 17.

intimated to Mehemet Ali Pasha [that he would] . . . assign the government of Alexandria, Damietta, and Rosetta," important port cities, "to the immediate management of the Kapudan Pasha," another "old enemy." Muḥammad ʿAlī knew well the dangers inherent in his relationship with the Sultan: in his struggle with Sultan Maḥmūd II, Muḥammad ʿAlī "fought for his wealth, for his position and prestige, and very probably his life also."[14]

It is evident that Muḥammad ʿAlī sought to enlarge the territory under his control in order to strengthen his position in the international arena. He no longer could hope that the Sultan would reconsider his basic opposition to accepting him (Muḥammad ʿAlī) as a true servant of the Porte. The *wālī* of Egypt was attuned to the rivalries and ambitions of the European powers in the Mediterranean and the Red Seas, and he hoped that his military successes would gain him respect, if not support, among them. He had a large army that he would not consider demobilizing, and a navy over which he was determined to retain control. His military buildup and reforms were part and parcel of his political gambit. Where he saw weakness and defeat on the part of the Ottoman armies he envisioned the victory of his own revitalizing and reforming forces.[15] In order to achieve his political aims, he needed to continue his massive military and naval buildup for which he required additional revenues and resources, especially Syrian and Anatolian timber and Lebanese coal.[16] With the entire Syrian coastline under his control, he expected to command the respect and cooperation of the Europeans, which he could then use as leverage to force the Ottomans to accede to his demands for perpetual control over the lands in his possession. Moreover, with his political base in Cairo well protected by his control of the Syrian frontiers, his chances of attaining his political goal of autonomy from the Porte would be greatly improved. Finally, the economic resources of Syria, particularly the textile trade between Syria, Egypt, Anatolia, and Europe, with its special French commercial connection, would bring Muḥammad ʿAlī material benefits

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[14] Rustum, *Origins*, 48–50.

[15] Uriel Heyd, "The Ottoman Ulema and Westernization in the Time of Selim III and Mahmud II," in *Studies in Islamic History and Civilization*, ed. Uriel Heyd (Jerusalem: Magnes Press, 1961), 91.

[16] In particular, the government coal works at Kirnāyil (Qirnāyil), Rustum, "Syria Under Mehemet Ali," (Ph.D. diss., University of Chicago, 1923), 15.

of great promise. Like other *aʿyān* lacking *kul* origin, he aspired to autonomy from the Porte, but he went further than most of them in his gambit to get it.

Rather than directly challenging Maḥmūd II, the Sultan and Caliph of the Ottoman Empire, Muḥammad ʿAlī informed the Porte that he was going to attack ʿAbdullāh Pasha because he was sheltering Egyptian refugees and interfering with Egyptian merchants. The Porte blandly replied "that a few merchants' complaints did not justify a declaration of war and that disputes between neighboring pashas should be determined, not sword in hand, but by the mediation of the Sublime Porte."[17] This unexpectedly weak response signaled an opening, and Muḥammad ʿAlī took it.

As a prelude to launching his military campaign, Muḥammad ʿAlī had contacted the custodians of the *Waqf* of David's Tomb, located on Mount Zion, a strategic place just outside of the walls of the city of Jerusalem. Here Muḥammad ʿAlī revealed an unexpected degree of political astuteness. Rather than waiting until he occupied Jerusalem by force, the *wālī* wrote to the treasury (*khazīna*) of Jerusalem, asking that the custodians of the *waqf* improve the "big granaries" or stables located near the Tomb, on the pretext that the pilgrims visiting the shrine required better facilities.[18] The custodians of the *Waqf* of David's Tomb, with the concurrence of their relatives who were the custodians of the *waqf* of the family's forefather, Aḥmad al-Dajānī, agreed to undertake these improvements.[19] Why they opted to do so is unclear from the records, but we can suggest two possible motivations: to convert the *waqf* property into *milk*, with the financial support of Muḥammad ʿAlī, and to curry favor with him in the process. The two groups of members of the Dajānī family went to the *mullā qāḍī*, and asked for and received his permission to repair

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[17] Dodwell, *Founder of Modern Egypt*, 109. Dodwell states further that ". . . nothing was done, no preparations were made, no orders were issued, to guard against the impending danger." (*ibid.*) However, it is clear that ʿAbdullāh Pasha expected help from the Porte by land and sea, see *LCRJ* 315, 121–2.

[18] *LCRJ* 315, 54. The term used in the document appears as "*al-bāyika*" and "*al-bā'ika*." In the court, the term was understood to mean 'stables,' but Rustum translated "*bāyika*" as "big granaries" in his *Notes on Akka*, 45.

[19] On Aḥmad al-Dajānī, see Uriel Heyd, ed. and tr., *Ottoman Documents on Palestine, 1552–1615; a Study of The Firman According to the Mühimme Defteri* (Oxford: Clarendon Press, 1960), 149, 178, and on Mount Zion and David's Tomb, see Amnon Cohen, 'The Expulsion of the Franciscan Monks from Mount Zion,' *Turcica*, Tome 18 (1986). The *waqfiya* of Aḥmad al-Dajānī is transcribed in al-Ḥusaynī, *Manhal*, 124–6.

the buildings of the *waqf*, recorded in a document dated 17 *Ṣafar* 1246/7 August 1830. Through this legal procedure, one part of the Dajānī family was granted permission to repair and improve the derelict buildings with their own money (*min mālihim*), and guaranteed that the buildings would then become their own property (*milk*) in return for the payment of a single *dirham* (*dirham al-fard*); at the same time the ruling guaranteed that the beneficiaries of both *awqāf* would continue to receive their customary benefits.[20] This mechanism, whereby *waqf* property was converted into private property, was the sanctioned method for the growing privatization of old *waqf* property occurring during this period in the city of Jerusalem.[21]

In this way, Muḥammad ʿAlī shrewdly initiated a relationship with a notable family in Jerusalem which controlled the most important strategic location in the city. Indeed, Ibrāhīm Pasha, as commander of his father's armies, was to use Mount Zion as his headquarters in Jerusalem throughout the Egyptian occupation.

On 14 October 1831 the vanguard of a nine-thousand-man infantry and a two-thousand-man cavalry force left Cairo, followed by twenty-one ships which left Alexandria on 4 November, carrying the remainder of the Egyptian army. Eight thousand camels were used in the campaign to transport food, water, and supplies. The ships landed their troops at Jaffa, which met up with the ground forces on 11 November and reached Haifa, unopposed, on 13 December.[22]

On 21 October 1831 ʿAbdullāh Pasha sent a letter to his *mutasallim* in Jerusalem informing him of the news that Muḥammad ʿAlī had marched on Gaza, but that the Ottoman *Qabṭān Pasha* was en route to assist in the defense of Acre and the Sultan's domains in Syria. In that letter, he condemned Muḥammad ʿAlī in the strongest possible terms, calling him "*al-khabīth*"—the evil one, "*al-kharūj*"—the rebel, "*al-shaqīy al-khāsir*"—the depraved villain, and "*al-laʾīn*"—

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[20] *LCRJ* 315, 54.

[21] The legal device used in this case is described by Gabriel Baer in "The Dismemberment of *Awqāf* in Early Nineteenth Century Jerusalem," in *Ottoman Jerusalem, 1800–1914: Studies in Economic and Social History*, ed. Gad G. Gilbar (Leiden: E. J. Brill, 1990), 303. This trend was counterbalanced by the establishment of new *awqāf*, as noted by Baer in his article. See also Randi C. Deguilhem-Schoem, "History of Waqf and Case Studies from Damascus in Late Ottoman and French Mandatory Times," (Ph.D. diss., New York University, 1983).

[22] Lt. Mordechai Gihon, *Atlas Carta li-Toldot Eretz-Yisrael mi-Beitar ve-ʾad Tel Hai* (*Carta's Atlas of the Land of Israel from Baytar to Tel Hai [Military History]* (Jerusalem: Carta, 1969), 92.

the Devil, as well as "the enemy of God" and the "enemy of the Sultan." ʿAbdullāh Pasha waited desperately for the promised help of the *Qabṭān Pasha* and governor-general of Damascus, who, it was said, commanded twelve thousand Ottoman soldiers, but that help would never arrive.[23]

At al-ʿArish, Ibrāhīm Pasha was met by the heads of the Ṭūqān family, who hoped to ally themselves with Muḥammad ʿAlī against ʿAbdullāh Pasha. However, their attempt to form an alliance with the Egyptians was quickly rebuffed by Ibrāhīm Pasha, who recognized that the Ṭūqāns were too powerful to serve dependably as his representatives in the Nablus region. He instead favored the ʿAbd al-Hādī family, especially Ḥusayn, who was to serve as the *mudīr* or 'director' of the Province of Sidon in the Khedival administration of *Bilād al-Shām*. The ʿAbd al-Hādī family was politically linked with that of Qāsim al-Aḥmad, the leader of a branch of the Ghāzzī family which had immigrated to the Nablus area in the seventeenth or eighteenth century and which held the *iltizām* for a village called Bayt Uza in the vicinity.[24] Together they had most recently led the Qaysi faction in oppostion to the Ṭūqāns and Jarrārs, who led the Yaman coalition, and which traditionally had been allied with Damascus. Irregular troops loyal to the ʿAbd al-Hādī and Qāsim al-Aḥmad families joined Ibrāhīm Pasha's armies as they moved through Syria in early 1832.[25]

The arrival in Jerusalem of a small regular Egyptian unit in December 1831 was greeted without opposition. The town was of so little immediate importance to Ibrāhīm Pasha that he did not react when the authorities of the city did not bother to recognize the *mutasallim* he had appointed for the city, and instead chose one for themselves. He took no action until April 1832 when a large contingent of Egyptian irregulars were garrisoned there. Then, the *muftī* and other notables were convinced to travel to Acre, where they 'welcomed' Ibrāhīm Pasha.[26] Shortly afterward, with the support

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[23] *LCRJ* 315, 121–2, 14 *Jumādā I* 1247.

[24] Spyridon, *Annals*, 96.

[25] Abir, "Local Leadership," 288–9.

[26] A number of reports, including documents in Rustum's *Maḥfuẓāt*, indicated that Ṭāhir al-Ḥusaynī, the *muftī* of Jerusalem and his cousin ʿUmar, the *qāʾimmaqām naqīb al-ashrāf*, had signed a *fatwā* issued by the *ʿulamāʾ* of al-Azhar against Sultan Maḥmūd II. Another document in the same collection, written by Ḥanna Baḥri, reported that "at a meeting held at the tent of Emir Bashir II in 1832, Shaykh

of Ḥusayn ʿAbd al-Hādī, Qāsim al-Aḥmad took his position as the *mutasallim* of Jerusalem.

ʿAbdullāh Pasha had fortified Acre, then a town of some eight to ten thousand inhabitants, over the preceding decade. In 1821 during his conflict with the *wālī* of Damascus he had "the whole population" dig a trench around the town, to be filled with water. Expecting to be forced to besiege this heavily fortified and key coastal town, Ibrāhīm Pasha had brought with his forces "ninety-six pieces of heavy and light ordnance, of which about seventy-six were guns, and twenty mortars and howitzers. In addition, he had brought up with him a battalion of sappers and one regiment of artillery," as well as eighteen to twenty thousand infantry and three to four thousand cavalry. He established his Acre headquarters at Bahjah, the palace of ʿAbdullāh Pasha, which lay on the outskirts of the city.

ʿAbdullāh Pasha, with his contingent of thirty-five hundred men, was able to hold off Ibrāhīm Pasha, who lobbed ten thousand cannon balls and three thousand shells into the fortified city, for an embarrassingly long time. In fact, it appeared as though Ibrāhīm Pasha had at last met his match. The siege lasted from 8 December 1831 to 27 May 1832.[27] The massive shelling of the city reduced much of it to rubble, but ʿAbdullāh Pasha held on until Muḥammad ʿAlī himself came to secure the fall of the city.[28]

It was during this period that Ibrāhīm and his father corresponded with one another about the fate of the Ottoman Sultan. As Afaf Marsot has detailed in her study of this period, Ibrāhīm urged his father to obtain a *fatwā* from the *muftī* of Aleppo condemning the Sultan which could be made known throughout Anatolia and even in Istanbul, bringing about the deposition of Maḥmūd II through popular revolt. His father did not encourage Ibrāhīm in this plan. In the meanwhile, Ibrāhīm had won the Battle of Konya on 21 December 1832, roundly defeating the Ottoman army. With the cap-

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Ṭahir read the hadith: '*la'natu allahi 'ala al-Sultan al-da'if*' (God's curse upon the weak Sultan)." Cited in Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 16–7. See Rustum, *Maḥfuẓāt*, I:179, 724; II:183–4, docs. 2280 and 2289 and 233, doc. 2539. Abu-Manneh also cites D. Barakat, *al-Baṭal al-Fatiḥ Ibrahim Pasha* (Cairo: n.p., n.d.), 26–7 and ʿAli al-Wardī, *Lamaḥat min Tārīkh al-ʾIraq al-Ḥadīth* (Baghdad: n.p., 1971) II:28f. in support of this claim.

[27] Rustum, *Notes on Akka*, 5, 19–26. In fact, Ibrāhīm transported the columns which supported the dome of ʿAbdullāh Pasha's bath to his new palace in Tiberias.

[28] Dodwell, *Founder of Modern Egypt*, 110–1.

ture of Rashīd Pasha, the Ottoman Grand Vizier, Ibrāhīm was eager to be rid of the Sultan. He began to issue orders to his army in the grand vizier's name, and treated Rashīd Pasha as an honored guest, hoping to convince him to march to Istanbul at the head of the Egyptian army, depose Maḥmūd II and replace him with the Sultan's young son, ʿAbd al-Majīd. However impatiently, Ibrāhīm awaited his father's orders, asking his political intentions before pressing on against Istanbul. Ibrāhīm obtained a *fatwā* in 1833 which read: "'If the *imām* of the Muslims oppressed (*gar*) the *umma*, is it legal to depose him?' to which the answer was, 'It is, on condition that the *umma* is composed of 12,000 men who are all in agreement.'" Note that this number is the size of the Ottoman army sent against Muḥammad ʿAlī and defeated by him. If Rashīd Pasha had agreed to Ibrāhīm's scheme, and had led his troops against the Sultan, this would have fulfilled the terms set in the *fatwā*. However, both Rashīd Pasha and Ibrāhīm were concerned that if word of these plans were to reach the Sultan, he might protect his throne by murdering his sons, "which blemish would fall on Egypt."[29]

Apparently Muḥammad ʿAlī ordered his son to give up his plans for overthrowing the Sultan, and to relinquish all hopes of actually taking control in Istanbul, because Ibrāhīm told Rashīd Pasha that Muḥammad ʿAlī hoped only to see the young prince ʿAbd al-Majīd sit on the throne. So Rashīd Pasha was sent back to Istanbul, and Muḥammad ʿAlī placed Ibrāhīm at the head of the government of Syria.

For the next seven years, Muḥammad ʿAlī controlled *Bilād al-Shām* and all of its resources. To his surprise, establishing order and stability in the mountainous regions of Syria would prove as difficult as bringing about the fall of Acre.

The roots of Muḥammad ʿAlī's rebellion against the Porte in 1831 run deep into the history of the political relationship of the Arab provinces of the Ottoman Empire with the Porte and with one another. The emergence of economically and militarily autonomous leaders with their origins among the taxpaying subjects (*raʿāyā*) in the provinces had been both a help and a hindrance to the Porte. On the one hand, these local potentates could provide military services

[29] Afaf Lutfi al-Sayyid Marsot, *Egypt in the Reign of Muhammad Ali* (New York: Cambridge University Press, 1984), 224–5.

to the Sultan. On the other, they could refuse to do so, or worse, join the Sultan's enemies. They could neglect to collect taxes for the Porte, and they could levy illegal taxes upon the subjects of the Porte. Failing to uphold and enforce Ottoman law, the Porte would lose control over its provinces. This was the dilemma that the *aʿyān* posed to the Sultan.

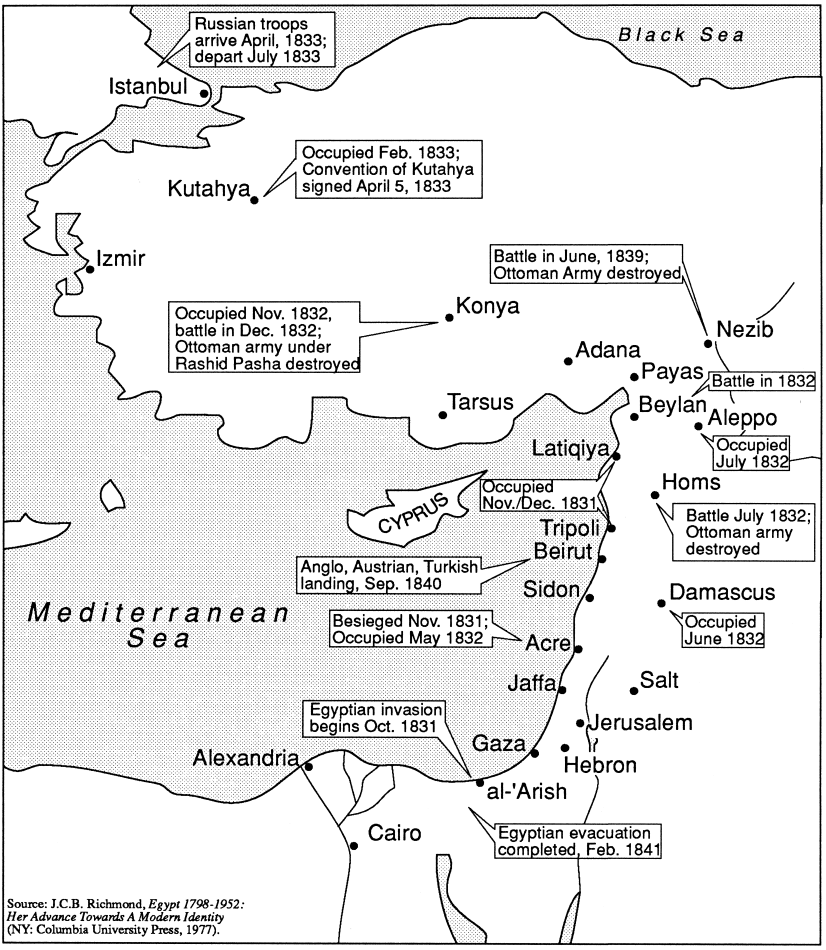
The classical system of Ottoman provincial administration—the *tīmār* system—had persisted into the nineteenth century. To the north and west of Jerusalem, this system had begun to be replaced by the *mālikāne* system. As Maḥmūd II began to reform the duties of the *umarāʾ* in the area around Jerusalem, he revealed his intention for them to serve as guardians along the *Ḥajj* route. Before their military duties were redefined, however, Muḥammad ʿAlī invaded Syria. The initial support of the Nabulsi *umarāʾ* for the Egyptian *wālī* must be understood in this context.

The impact of the international political situation—the Greek rebellion and the Russo-Ottoman War—on the local politics of Jerusalem was significant. The extraordinary levies (*ʿawariḍ*) imposed by the Ottomans to finance their military efforts, and the refusal of the local populations to pay them, had led to popular rebellion against the provincial authorities in 1825–1826 and again in 1829. Political friction between the rural *umarāʾ* and the provincial governors-general of Damascus and Sidon resulting from the implementation of Maḥmūd II's reforms characterizes this period of Palestinian history. The roots of that conflict—the alliances and rivalries of various clans with competing governors-general—made the implementation of Ottoman policies, particularly revenue collection in rural areas and military reforms throughout the region, extremely difficult.

The role of the *afandiyāt* in attempting to mediate these disputes between the rural leadership and the provincial authorities is a remarkable aspect of that ongoing hostility. At its root the rivalry of the various rural *umarāʾ* groups were struggles to preserve their political and economic prerogatives in the face of military reform ordered by the Porte. The Porte had recognized the *umarāʾ* by stipulating in the reforms of 1826 that the military contingents based in Nablus and Jerusalem would continue in their role of protecting the *Ḥajj* caravan rather than be integrated into the New Order as would other Syrian units. The contemporaneous centralization of the Ottoman *waqf* administration that began in 1826, the same year as the military reforms, probably served to dampen the local *afandiyāt*'s support

for ʿAbdullāh Pasha to a certain extent, but there is no evidence that the *ʿulamāʾ* took part in the Tax Rebellions of 1825–1826. However, under the imposition of Khedival rule, it would be the turn of the *ʿulamāʾ* to experience the dislocating effects of reform, resulting in a new and quite different kind of conflict in Jerusalem.

The relationship between Muḥammad ʿAlī and ʿAbdullāh Pasha reflected the issues of provincial administration facing the Ottomans during this period. The sources of power that had fueled the rise of autonomous leaders of *aʿyān* origins throughout the empire during the previous two centuries, most notably the collection and distribution of *mīrī* and *jizya* taxes by the provincial governors-general, the development of the *mālikāne* system of tax-farming, and the control of autonomous military units, likewise strengthened the *wālī*s of Cairo and Sidon. The ensuing clash over Syria represented the culmination of these trends. Nor were the peasants of the region submissive. The Tax Rebellions of 1825–1826 and 1829 show the readiness and the determination of the *raʿāyā* to insist on the legal limits of taxation codified in Ottoman law. The persistent underlying causes of popular unrest—overtaxation and political rivalry—would smolder and then become inflamed by the new policies enacted by the Khedival regime. The 1830s would become a decade of political, social, and economic upheaval, as the organizing principles of *Bilād al-Shām* were redefined under Khedival rule.



Map 5. Military campaigns of 1831–1841.

CHAPTER FOUR

THE ESTABLISHMENT OF KHEDIVAL RULE AND THE REACTION IN JERUSALEM: 1832–1834

Muḥammad ʿAlī created a new system of government to extend his control over Syria in the years following the invasion. This redefinition of Ottoman institutions by the Khedival administration distinguishes his rule from that of any other Ottoman provincial ruler. The Khedival government promulgated a new body of law, called *al-ʿAḥkām al-Siyāsa*,' which had the same force under his administration as the Ottoman *Qānūn* and which consisted of decrees meant to override the Ottoman order.

Under Ottoman rule, decrees concerning financial and civil administration were framed within the *Qānūn* on the basis of the *Sharīʿa*, the only legitimate source of legal authority. It will be recalled that the most important of the governor-general's legal prerogatives within the realm of *Siyāsa* was the authority to impose and carry out a death sentence. Theoretically, the administration of justice and the implementation of judicial decisions had been divided in the Ottoman system between the *wālī* and the *qāḍī*. In practice governors tended to overreach their authority, and in 1827 Maḥmūd II as part of his judicial reforms had issued a *firman* that specifically "forbade governors of provinces or their agents to put to death anybody, Muslim or non-Muslim, without a judicial sentence of a *qāḍī* . . . and without the possibility of appealing such a sentence . . ." to the leading judicial authority, who was ultimately the Sultan-Caliph himself, at the apex of the system, representing the *Sharīʿa* and the *Qānūn*.[1]

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[1] Butrus Abu-Manneh, 'The Nashqabandiyya-Mujaddidiyya in the Ottoman Lands in the Early Nineteenth Century,' *Die Welt Des Islams* 22 (1982), 29. Abu-Manneh commented on this section of my manuscript that "[the judgment of] capital crimes [was] normally within the prerogatives of the governor, not the *ʿulamā*'"; Uriel Heyd determined that the Sultan-Caliph reserved for himself the right to confirm all death sentences. See Heyd, *Criminal Law*. See also H. Inalcik and C. Findley, "*Maḥkama*: 2. The Ottoman Empire i. The Earlier Centuries [and] ii. The Reform Era," *Encyclopaedia of Islam*, CD-ROM Edition (E. J. Brill).

Maḥmūd II was clearly attempting to remedy the imbalance of power between the military governors-general and the judicial authorities in the provinces, and reasserting his position at the apex of the Ottoman legal and political institutions.

Muḥammad ʿAlī's creation of a new judicial forum—the *Majlis al-Shūrā*, the Consultative Council—to carry out his political will was in direct challenge to Sultan Maḥmūd II and the Ottoman state. Where *Siyāsa* had been construed to complement the *Sharīʿa*, it was now separated from the purview of the *ʿulamā'*, beginning a process of juridical development independent of the authority of the Sultan, whose own legitimacy was based on the *Sharīʿa*. It is important to note that many bureaucrats who had formerly served the Ottomans joined the Khedival government in Egypt. These officials could rearticulate Ottoman law for the new regime. Thus, an important activity of the new government was the codification of a distinct body of law. The significance of this aspect of the Khedival regime is that it was an expression of rebellion against the Ottoman state.

Muḥammad ʿAlī's reorganization of the government of Syria involved eliminating the Ottoman provincial administration and replacing it by a new kind of regime—one that ruled by his decree. While it is true that the Ottoman sultans also ruled by decree, it was always within the context of a conscious commitment to uphold the *Sharīʿa* as the Caliph of the Islamic community, supported by the rulings of the *Shaykh al-Islām*. It was that commitment that increasingly legitimized and underpinned the Ottoman state. Muḥammad ʿAlī was not concerned with this kind of organic continuity between himself and his subjects. He used legal bodies and authorities to garner public opinion, to implement the policies of his regime, and to enforce its directives, and to organize and define the nature of his regime. Khedival policies were designed to further the centralization and militarization of the Syrian economy and to exploit it for the needs of the Egyptian economy. Muḥammad ʿAlī's strategic goals and the policies meant to achieve them would soon shake Jerusalem and all of Syria.

In the literature concerning the Egyptian administration of Palestine, the overwhelming consensus has been favorable to Muḥammad ʿAlī Pasha and his son Ibrāhīm. The reforms instituted by Ibrāhīm, particularly the consultative councils established in the towns, in which representatives from all of the recognized religious communities sat,

have been viewed in a very positive light.[2] Furthermore, Ibrāhīm's enforcement of law and order in the towns and on the highways of the region has won the respect of Middle Eastern historians, to such a degree that this period has been described as the beginning of the modern era in the region.[3] The source of this positive view of Muḥammad ʿAlī's policies is the willingness of some historians to accept his reforms at face value. However, the formal institutions proposed by Ibrāhīm Pasha did not translate from the abstract to the concrete. Social and political structures did not emerge neatly as a result of the organizational reforms instituted by Ibrāhīm Pasha. Viewed from the perspective of Syrian and Ottoman history, the effect of Ibrāhīm Pasha's government in Palestine, should, in fact, be carefully reconsidered.

Undoubtedly, Muḥammad ʿAlī opened the area to the West, but only with the explicit authorization of the Porte. For the first time in modern history, the Muḥammad ʿAlī period saw significant numbers of Jews from Europe being permitted to settle and build in Palestine. Some scholars have viewed the period favorably for this reason. However, Jewish immigrants to Jerusalem and other Palestinian towns during the 1830s came for economic and religious reasons, not political ones. They came with the idea that they would pursue commercial opportunities or simply to return to the land of their fathers. It would not be until some fifty years later that what evolved into political Zionism would become a factor in Jewish settlement in the area.

In addition, European governments were now allowed to open consulates, build churches, and represent the members of their communities for the first time since the Crusades.[4] The improvement in

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[2] Yitzhak Hofman, "The Administration of Syria and Palestine Under Egyptian Rule: 1831–1840," in *Studies on Palestine During the Ottoman Period*, ed. Moshe Ma'oz (Jerusalem: Magnes Press, 1975), 311–33; Ma'oz, *Ottoman Reform*; and Shamir, "Egyptian Rule," 214–31.

[3] It can be argued that this view can be traced back to that of the British Consul-General in Cairo, Patrick Campbell, concerning Muḥammad ʿAlī and Ibrāhīm Pasha. While he was critical of some of the policies of the two, he seems to have agreed with them in their estimation of the inhabitants of the *sanjaq*s of Jerusalem and Nablus.

[4] Muḥammad ʿAlī's policy of permitting the immigration of Jews into Palestine has a large bibliography. Among the most important works are: Ma'oz, *Studies* and *Ottoman Reform*, and A. M. Hyamson, *The British Consulate in Jerusalem in Relation to the Jews of Palestine 1838–1914* (London: E. Goldston, Ltd., 1939–1941).

the position of religious minorities in Palestine was, however, a function of internal political dynamics within the Ottoman Empire.[5] An indication of the improvement of the situation of Christians, preceding the Egyptian invasion of southern Syria, is that ʿAbdullāh Pasha himself had informed the officials and notables of Jerusalem that they were thenceforward forbidden to accept 'gifts' or take illegal payments from the Armenian community.[6]

Even before moving into Syria, Muḥammad ʿAlī had let it be known that he would treat Christians and Jews favorably by abolishing all irregular payments and exactions levied on Christians and Jews living in Jerusalem.[7] Indeed, one of the first actions that Ibrāhīm Pasha took was to order the abolition of all exactions from Christians and Jews by officials and other prominent people, including the taking of *aghfār*, or tolls imposed on pilgrims entering the Church of the Holy Sepulchre and visiting the baptismal sites along the Jordan River, as well as all illegal payments taken from the Jews, "whether old or new," stating that all such impositions were contrary to the *Sharīʿa*. He warned that the taking of even a single *dirham* would be reason for censure.[8] Such a policy was meant to generate a supportive constituency for the new regime among the *dhimmī* communities of Syria.

In keeping with this approach Ibrāhīm Pasha on 19 August 1832 issued an order to the *mutasallim* of Aleppo freeing all taxpaying *raʿāyā*—Muslims and non-Muslims—from "the hardships imposed upon them by previous rules"—outlawing all illegal payments (*ʿawa'id*) and the obligations of providing money, fodder, and supplies to active and fugitive soldiers, who were to be provided for instead by the treasury. Most importantly, the order exempted the *raʿāyā* from paying the *mīrī* taxes. Since God had delivered these lands "under the shadow of the Egyptian government," the order stated that the government was obligated to provide tranquility for the *raʿāyā*, and prohibited all former exactions from the taxpaying subjects of the province.

This order was to be read aloud in the *Sharīʿa* court in the presence of the other notables (*aʿyān*) and prominent people, emphasiz-

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[5] Masters, *Christians and Jews*, 98–129.
[6] Rustum, *Uṣūl* I:43–5, no. 13, dated 17 *Rabīʿ II* 1247/25 September 1831.
[7] Abir, "Local Leadership," 303.
[8] Rustum, *Uṣūl*, I:87–9, no. 36, dated 1 *Rajab* 1247/6 December 1831; also *ibid.*, I:130, no. 60; II:4, no. 66.

ing the new exemption from the *mīrī* taxes and stipulating that the revenues normally going to the treasury (*khazīnat al-ʿimāra*) henceforward would not be distributed yearly (*salyāne*) to the "*ahālī*" or the urban Muslims. Nor would those who had customarily received irregular payments (*ʿawaʾid*) such as the *mutasallim*s, other prominent people, servants and treasurers be allowed to receive those benefits.[9] Not even half a *fiḍḍa*—a small, almost valueless silver coin—should go to them, and anyone who did not cooperate would be under censure (*taḥt malām*). The order was signed *al-Ḥājj* Ibrāhīm, *Wālī* of Jidda and *Serʿasker* of Egypt.[10]

This sweeping order explains much about the nature of the new Khedival government, in confrontation with the Porte. Clearly, the taxpaying *raʿāyā*, having heard of this decree, would have found in it hope for relief from their financial burdens to the Ottoman Empire, and thus would have supported the new regime as a result. The administrative class, the *ʿulamāʾ*, and the *ahālī* in general, on the other hand, would have been put on notice concerning Muḥammad ʿAlī's stance toward them. This must have disappointed those *ʿulamāʾ* who had begun sending Muḥammad ʿAlī tribute beginning in 1827 in the hope of currying favor with him.[11] At this stage, the collection of revenues on behalf of the Sultan was annulled, leaving the stage open for a new Khedival tax regime not yet implemented.

The reaction of the Muslim population to the military and economic policies of Ibrāhīm Pasha should not be confused with their reaction to the growing presence of Westerners in Jerusalem, nor with their dismay over the elevated position of non-Muslims in their midst. To characterize the Muslims merely as religious fanatics who

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[9] On the *sālyāna* see Inalcik, *The Ottoman Empire*, 224, where he defines the term as "a sum annually remitted to the capital by the governors of certain provinces where the timar system was not in force." Apparently in the 1820s and 1830s this sum, like the *jizya* and *mīrī* taxes, was collected and disbursed not by the Porte but by the provincial governor-general to Muslims privileged to receive this particular annual benefit. Since Muḥammad ʿAlī and Ibrāhīm had been taken off the list of provincial governors because of their invasion of *Bilād al-Shām*, they apparently reasoned that the "*ahālī*" could also be deprived of their official status as beneficiaries of the empire.

[10] Rustum, *Uṣūl*, II:31–2, dated 22 *Rabīʿ I* 1248/19 August 1832. Rustum noted that this document was also found in Latakiya, Tripoli, and Jerusalem, but I failed to find it in my survey of the Jerusalem *sijillāt*. See also *ibid.*, II:33–4, no. 86 (*LCRJ* 317, 37) on security and justice in Jerusalem.

[11] George John Koury, "The Province of Damascus, 1783–1832," (Ph.D. diss., University of Michigan, 1970), 186.

were opposed to the immigration of Jews or the opening of European consulates belies their rejection of the new economic and military reform policies introduced by both the Khedival administration and the Ottomans. The simultaneous interposition of two new realities has led historians to emphasize the conservatism of the Muslim hierarchy in order to explain their opposition to Ibrāhīm Pasha. Their struggle to maintain the prerogatives and privileges they had enjoyed under the Ottomans coupled with religious fanaticism have been the commonly accepted explanations for their rebellion against Ibrāhīm Pasha. However, as has been made clear in the preceding chapters, the Porte itself had been initiating changes in the classical system of land tenure and in the military practices of the empire. A careful examination of the policies of Ibrāhīm Pasha, drawing upon evidence in the court registers and contemporary chronicles, thus yields the specific causes of the rebellions against Muḥammad ʿAlī in 1834, and a better understanding of the position of the Muslim inhabitants of Jerusalem under Khedival rule.

The Early Phase of Khedival Administration

The first order of business for the new regime was to collect revenue in its new territories. On 9 September 1832 a representative of the Egyptian army gave notice that permission had been granted for collecting all *waqf* and *mīrī* revenues from the *shaykh*s of the various *nāḥiya*s (subdistricts) and villages, along with a list of all the vacant *tīmār*s for 1831 and 1832.[12] On 22 September 1832 Muḥammad Saʿīd Aghā was dismissed as *mutasallim* in Jerusalem and Qāsim al-Aḥmad, ally of Ḥusayn ʿAbd al-Hādī, was chosen to replace him.[13] The order commanded the *mullā qāḍī* to dismiss the former because he had been tardy in assuring the repose of the people—the *ahālī*—

[12] Rustum, *Uṣūl*, II:41–2, no. 92, dated 13 *Rabiʾ I* 1248, also *LCRJ* 317, 41.

[13] Beshara Doumani has researched the commercial enterprises of Ḥusayn ʿAbd al-Hādī and Qāsim al-Aḥmad during this period in his study of the development of the Nabulsi merchant class, particularly through their ownership of soap factories in the city of Nablus. This dimension of the effects of Khedival rule in *Jabal Nabulus* is the subject of his study of the *Majlis al-Shūrā* records during the Khedival period and following the Ottoman restoration. See his *Rediscovering Palestine*, 131–232, especially 208–9.

and the taxpayers—the *raʿāyā*, and in implementing the laws as commanded, especially concerning the *mīrī* taxes.[14]

When Muḥammad ʿAlī at last had secured his conquest of Syria, he issued an order to Qāsim al-Aḥmad, *mutasallim* in Jerusalem, informing him of his victories in Anatolia, and ordering him to make known the imposition of Egyptian law (*al-Aḥkām al-Miṣriya*). In that order, he called all the territories under his control "The Just Egyptian State" (*al-Dawla al-Miṣriya al-ʿAdila*).[15] In a later order, also sent to Qāsim al-Aḥmad, he called it "The Just Muḥammadan State" (*al-Dawla al-ʿAdila al-Muḥammadiya*).[16] However, by 15 December 1832 the machinery of the new bureaucracy had begun to work, and an order was sent to Qāsim al-Aḥmad from Muḥammad Sharīf Pasha to collect overdue *mīrī* taxes in the *sanjaq* of Jerusalem. Muḥammad Sharīf Pasha signed this order "Commander Muḥammad Sharīf, the Superintendent to the Great Khedive and Civil Governor of the Province of Damascus."[17] The character of the new regime began to take shape.

Based upon Arabic histories of the period, Yitzhak Hofman described the initial, "provisional administration" of the newly conquered territories in the years prior to 1834 as "moderate." He quoted Muḥammad ʿAlī's admonition to his son regarding the inhabitants of Syria, reminding him that their security and tranquility is "'one of the most important elements in a war of conquest.'"[18] This moderation, according to Hofman, was evidenced further by Ibrāhīm Pasha's firm policy

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[14] Rustum, *Uṣūl*, II:42, no. 93, dated 26 *Rabiʾ II* 1248. Growing impatient with Qāsim al-Aḥmad, Muḥammad ʿAlī thundered his power by proclaiming himself "Lord of the House (Medina) and the *Ḥaram* (Mecca)," and signed another order—"*rabb al-bayt wʾal-ḥaram*," *ibid.*, 43, no. 94, *Rabiʾ II* 1248/22 September 1832. Qāsim al-Aḥmad stepped aside and gave the *mutasallimate* to his son Muḥammad al-Qāsim on 30 June 1833. The order was issued by the *Ḥikimdār* Muḥammad Sharīf. *Ibid.*, 82, no. 118, also *LCRJ* 318, 35. Later, on 8 February 1834 Qāsim's other son Yūsuf would assume this post. *Ibid.*, II:101, no. 129, also *LCRJ* 318, 70, 28 *Ramaḍān* 1249.

[15] *LCRJ* 317, 49, dated 21 *Jumādā I* 1248/4 October 1832.

[16] *LCRJ* 317, 60, dated 5 *Rajab* 1248/2 December 1832.

[17] *LCRJ* 317, 67, dated 21 *Rajab* 1248/15 December 1832.

[18] Hofman, "Administration," 312. See also his "Pa'alo shel Muḥammad 'Ali beSuriyah," (Ph.D. diss, Hebrew University of Jerusalem, 1963). His sources included: Ḥaydar Aḥmad al-Shihābī, *Lubnān fi ʿAhd al-Umarā al-Shihābiyyīn*, (Beirut: n.p., 1933); al-Shihābī, *Tārīkh al-Amīr Bashīr al-Kabīr* (Lebanon: n.p., 1933); A. Katāfākū, *Futuḥat Ibrāhīm Pasha* (Beirut: n.p., 1937); and Rustum, *Maḥfuẓat*. Abdul-Karim Rafeq notes that Shihābī is unreliable.

concerning the looting of Acre by his soldiers. The city suffered heavily in the bombardment, but was not "given to the flames. It was not even pillaged by the Egyptians the way other cities of its kind had been before 1831."[19] Those soldiers who did loot the town were later severely punished. Hofman also cited Ḥaydar al-Shihābī's report that Ibrāhīm "adopted a policy of paying liberally for supplies delivered to the army." In his overall judgment concerning the early period of Ibrāhīm's conquest, Hofman disagreed with Rustum, writing, "Ibrāhīm and his army appeared as liberators of the people from the yoke of the pashas and their oppression, and as the bearers of an easier and non-arbitrary regime." The people of Nablus, "with the memory of their blood feud with ʿAbdullāh Pasha still fresh in their minds, were hoping for a change in their situation and cooperated with the Egyptians even before the fall of Acre."[20]

This initial willingness to accept, even to support, the rule of Ibrāhīm Pasha was, as we have seen in the preceding chapter, a function of the political rivalries of the area. However, the inhabitants of *Bilād al-Shām* had no way of knowing the intentions of Muḥammad ʿAlī and his son to arrogate to themselves the powers of their sovereign, the Sultan. It is doubtful that any inhabitant of Syria thought that the rule of Ibrāhīm or Muḥammad ʿAlī would be any different from those of the other pashas in their experience. Indeed, Muḥammad ʿAlī's fearful reputation as the ruler of Cairo who had liquidated the Mamluks and had dispossessed large numbers of the *ʿulamāʾ* surely would have been known among the people of Syria.[21] It is unlikely that any of these people would have thought that Muḥammad ʿAlī would bring benevolent rule to Syria. Ottoman proclamations condemning Muḥammad ʿAlī as a traitor and infidel undoubtedly shook the confidence of the *ʿulamāʾ* and *ashrāf* about the wisdom of supporting the ambitious governor.[22]

Immediately before the Egyptian invasion, the people of Jerusalem demonstrated to ʿAbdullāh Pasha that they were in a fighting mood, intent upon defending their interests. They had petitioned the *wālī* concerning his deputy-governor, the *mutasallim* Saʿīd al-Muṣṭafā. In

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[19] Rustum, *Notes on Akka*, 4.
[20] Hofman, "Administration," 311–2.
[21] Richmond, *Advance*, 39, 62–3.
[22] *LCRJ* 315, 121–2; see *LCRJ* 317, 49 and 317, 60 for other examples of Khedival propaganda.

his order appointing a new *mutasallim* for the city, ʿAbdullāh Pasha addressed the officials and notables of the city: the *Muftī* Muḥammad Ṭāhir al-Ḥusaynī, the *Qa'immaqām Naqīb al-Ashrāf* Muḥammad ʿAlī Afandī, the *Wakīl* of the *Takiya al-ʿImāra* Muṣṭafā Aghā ʿAlī Afandī Zāde, the unnamed temporary *mutasallim*, the Commander of the Albanian regiment Ḥusayn Bey, as well as other military commanders and officials, along with all the *imām*s, *khatīb*s, and the rest of the *ʿulamāʾ* and other prominent people of the city. He explained that he had dismissed the former *mutasallim* because he had received their petition from the *mullā qāḍī* which had expressed their dissatisfaction with that official. He recognized that their complaints focused upon Saʿīd al-Muṣṭafā's excesses—his overstepping of the limits of his authority, violation of the *Sharīʿa*, abuse of the *ʿulamāʾ* and the *ashrāf*, "taking advice from the corrupt," as well as greediness towards the *raʿāyā*, harming of settled life and allowing thieves to pillage the *raʿāyā*—and had therefore removed him from office.[23] Upon the appointment of the new *mutasallim*, Muḥammad Shahīn Aghā, formerly the *mutasallim* in Gaza, ʿAbdullāh Pasha had ordered the arrest of Saʿīd al-Muṣṭafā, along with his father and son, and requested an accounting and confiscation of his properties.[24] In his last recorded order to Muḥammad Shahīn Aghā, "al-Sayyid ʿAbdullāh Pasha, the *Wālī* of Sidon and Tripoli, and the *mutaṣarrif* of the *liwa*s of Gaza, Ramla, Jerusalem, Nablus, and Jenīn," referred to Muḥammad ʿAlī's invasion and the need to protect "*al-Arāḍī al-Muqaddasa*"—the Holy Lands—against the invader.[25]

During the first period of Khedival rule in Syria, little changed. When Ibrāhīm Pasha arrived, he reappointed Muḥammad Shahīn Aghā as the *mutasallim* of Jerusalem, giving him the formulaic directions typical of these appointments. The *mutasallim* was to demonstrate, by his official acts the regime's desire "to encourage and protect settled life; assure the tranquility of the worshippers (i.e. the Muslim inhabitants); protect the poor and the miserable; deter and repress corrupt despots; and secure both buildings and fountains against evil, deceptive people." "With special recognition of the unique status of the people of Jerusalem and the eternal *al-Aqṣā* mosque,"

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[23] Rustum, *Uṣūl*, I:57, no. 20, also *LCRJ* 315, 110.
[24] *Ibid.*, 53–5, nos. 18–20, also *LCRJ* 315, 106.
[25] *Ibid.*, 79–81, no. 31, dated 21 *Jumādā II* 1247/27 November 1831, *LCRJ* 315, 121–2; see also *LCRJ* 317, 49.

he urged the deputy-governor to "follow the *Sharīʿa*, abolish falsehoods, establish the rights of the upright, perform the desired services (to Ibrāhīm Pasha), and, lest it be forgotten, to protect the *mīrī* money." Ibrāhīm Pasha underscored his desire for the tranquility of the Muslims of Jerusalem—the *ahālī*—and the taxpayers—the *raʿāyā*. In order to assure their security, the *mutasallim* was to prevent aggression against them, allowing settled life and worship to continue undisturbed without the threat of injustice or oppression.[26] Apparently Muḥammad Shahīn Aghā declined this appointment, and Ibrāhīm Pasha temporarily appointed Yaḥya Bey, formerly the *Alay Bey* of Jerusalem.[27] However, Yaḥya Bey was slow to implement the *serʿasker*'s orders and was soon replaced by Muḥammad Saʿīd Aghā.[28]

Until the arrival of the new civil governor (*ḥikimdār*) appointed by Muḥammad ʿAlī to rule Damascus, there was continuity in the administration of the area. "The trend here can be seen clearly: not to upset the sense of security of the inhabitants, to retain key positions and to win them over to cooperation with the invader."[29] Husayn ʿAbd al-Hādī was named the *mudīr al-mutasallimīn*, the Director of the *mutasallim*s, and the *mudīr* of the Province of Sidon.[30] Along with Ḥusayn, his allies and relatives served Ibrāhīm Pasha as the *mutasallim*s of the *sanjaq*s of Nablus, Jerusalem, and Jaffa and the area, for a time, was quiet.

With the conclusion of the agreement in Kütahya in mid-April, 1833, which brought about a temporary end to the hostilities between Muḥammad ʿAlī and the Porte, the names of the *wālī* of Egypt and his son were restored to the official Ottoman list of appointments and promotions (Turkish: *tevcihat*). At that time the division of Syria into separate *sanjaq*s was cancelled. Instead, the territories were redefined as five *eyālet*s—Damascus, Aleppo, Tripoli, Adana/Tarsus, and Sidon/Jerusalem/Nablus, ruled by Muḥammad Sharīf Pasha, Ismāʾīl Bey, Muṣṭafā Barbar, Aḥmad Menikli Pasha, and Ḥusayn ʿAbd al-Hādī, respectively. Together, these regions were incorpo-

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[26] Rustum, *Uṣūl*, I:82–3, no. 32, dated 25 *Jumādā II* 1247/1 December 1831, also *LCRJ* 315, 123.

[27] *Ibid.*, 83, dated 26 *Jumādā II* 1247/2 December 1831.

[28] *Ibid.*, 109, no. 46, dated 17 *Ramaḍān* 1247/19 February 1832.

[29] Hofman, "Administration," 313–4. See Rustum, *Uṣūl*, I:95 and 106 and *LCRJ* 316, 45.

[30] Rustum, *Uṣūl*, II:110–4, no. 133, dated 8 *Ṣafar* 1250/16 June 1834.

rated into one province, called *Barr al-Shām*, or, occasionally, *ʿArabīstan* or *Bilād al-ʿArab*.[31]

The terms of the agreement at Kütahya were those of an informal cease-fire. The Sultan merely recognized Muḥammad ʿAlī as the *wālī* of Syria, subject to annual renewal. The Sultan would continue to deliver Imperial edicts (*firmāns*). He did not make any concessions impinging upon his sovereignty, and theoretically at least, reserved the power to dismiss Muḥammad ʿAlī. However, the Sultan did agree to withdraw Ottoman garrisons from the territories in question, and, more importantly, to allow Muḥammad ʿAlī to maintain his own navy and army.

For the Muslim communities in Syria, it was of major significance that the Ottomans maintained limited control over the *Maḥkama*, the Islamic Court, in the person of the *mullā qāḍī*. The Sultan thus maintained his authority as Caliph over the Muslim community.

The invasion, and later the 1834 rebellion, interrupted the smooth transfer of office from one chief judge to the next. As a result the chief *qāḍī* in Jerusalem at the time of the invasion, Abū Bakr Afandī Zāde al-Sayyid Muṣṭafā, remained in office until January of 1832. Following him, each of the *mullā qāḍī*s served for approximately one year until 1838, when there was another interruption.[32] Theoretically, however, the Porte continued to appoint the *mullā qāḍī*s and *muftī*s as in previous years. Significantly, Muḥammad ʿAlī was to pay yearly tribute to the Porte, to be derived from the *jizya* and the *mīrī* taxes paid by the inhabitants of the region.[33]

The Porte also reserved the right of sole control over Syria's external relations: international trade, diplomatic relations, and, especially

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[31] Hofman, "Administration," 316. Lebanon, specifically the coastal strip between Tripoli and Tarsus, east to the Biqa' remained the same, and was leased by Muḥammad ʿAlī to Amīr Bashir for 1500 *kīs* a year.

[32] See Appendix C, "A Note on the Law Court Registers as a Source."

[33] *LCRJ* 319, 106–7. This order, in Turkish, called in the margin of the *sijill* "*firman al-Kharāj*" was dated 20 *Dhū-l-Qa'da* 1250/20 March 1835. It was addressed to Muḥammad ʿAlī who had "joined the *sanjaq* of Jerusalem to his financial responsibilities" (*alḥaqān quds sharif sancağı mutasarrifi*) in regard to the collection and disbursement to the Porte of the *jizya* for the preceding, current, and following years in accordance with the details contained in the order. There is no evidence that Muḥammad ʿAlī complied with the order. See also Haim Nahoum, ed., *Recueil de Firmans Impériaux Ottomans Adressés aux Valis et aux Khedives D'Égypte 1006 H.–1322 H.* (1597–1904) (Cairo: L'Institut Français d'Archéologie Orientale du Caire, 1934), 181, doc. 583 dated 4 *Rabīʿ I* 1249 concerning the collection of *jizya* in 1833.

important during this period, the diplomatic protection of minorities under the guarantee of the Capitulations enjoyed by the French and the British.

The result of the agreement was to leave the 'effective government' of Syria in Ibrāhīm Pasha's hands. Ibrāhīm Pasha, as the commander in chief of the army, or '*Serʿasker*,' was deputized by Muḥammad ʿAlī to oversee the entire government of Syria, military and civil. Under the Ottomans, the position of *serʿasker* entailed extraordinary powers to suppress revolts and carry out special duties, most notably collecting the *mīrī* taxes as *serʿasker al-dawra* in the period preceding Muḥammad ʿAlī's conquest. Following the liquidation of the Janissary corps, Khusrev Pasha in 1827 had been named *Serʿasker* as 'Minister of War and Commander of the Armed Forces,' a title he held until 1836.[34] Clearly, the reforms taking place in Istanbul were mirrored in Cairo, and in turn, those in Cairo influenced the policies followed in Istanbul.

Ibrāhīm, with his father's guidance, established a new bureaucracy to oversee the Syrian government. In it were combined the security, economic, and civil functions of the administration of the towns, villages, and highways of Syria. One week after entering Damascus, Ibrāhīm Pasha established the *Dīwān al-Shūrā*, (also *Majlis al-Shūrā*) or Superior Consultative Assembly which served as a court of appeals for all of *ʿArabistān*.

The council was composed of four officials reporting to Ibrāhīm Pasha, and overseen by Muḥammad ʿAlī himself. All members of the Syrian Khedival administration received the same salaries as their peers in Egypt. Muḥammad Sharīf Bey, a former governor of Upper Egypt and Muḥammad ʿAlī's son-in-law, was, on the recommendation of Ibrāhīm Pasha, appointed by Muḥammad ʿAlī to act as the civil governor of the new territories.[35] On 21 November 1832 Muḥammad Sharīf Bey arrived to take up his post. His title was '*Ḥikimdār*,' and he ruled from the Khedival capital of Syria, Damascus. Unlike the former governors-general (*wālī*s), the *ḥikimdār* had no military responsibilities.[36] Muḥammad Sharīf served as the civil governor of all the

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[34] Hofman, "Administration," 317–8; see also M. D'Ohsson, *Tableau Général de L'Empire Ottoman* (Paris: n.p., 1787), III:387; Lewis, *Emergence*, 79; Kinross, *Ottoman Centuries*, 452–71; and Ma'oz, *Ottoman Reform*, 1–17.

[35] Hofman, "Administration," 315, 322, 325. See also Schilcher, *Families in Politics*, 44–5, 138–9.

[36] Hofman, "Administration," 313–5. He translates 'ḥikimdār' as "governor-

Syrian territories, responsible for all policies not related to external security. The army recognized his authority in civil matters. He acted as a member of the *Dīwān al-Shūrā* of Damascus and closely followed all Syrian affairs.

Besides Ibrāhīm Pasha and Muḥammad Sharīf Pasha, there were two other important officials in the Khedival government of Syria. Sulaymān Pasha, the former French Colonel Sève, reported to Ibrāhīm Pasha as chief of staff of the army. In addition to organizing the Egyptian army along French lines, he had the additional responsibility of mediating between Europeans and the indigenous authorities. Ḥanna Baḥrī, an Arabic-speaking Syrian Greek Catholic from the city of Homs, was appointed as the treasurer and served as the financial supervisor of military and civil affairs. Baḥrī, along with Sulaymān Pasha, accompanied Ibrāhīm into Syria at the time of the invasion, and the former was accorded the title of '*mīr liwā*'' in honorific military recognition of his abilities, as well as receiving the title of 'Bey.'[37] Baḥrī also served as the head of the Superior Consultative Council, the *Dīwān al-Shūrā*.[38] Ḥusayn Afandī al-Murādī, the *Muftī* of Damascus, presided over its proceedings but Baḥrī held the power to ratify or veto any decisions made by the council.[39] The four members of the *Dīwān* corresponded directly with Muḥammad ʿAlī, and his chief administrator (the *Bashmuʿāwin*) in Egypt, and received direct orders from Cairo. The entire Syrian enterprise was thus closely monitored and directed by Muḥammad ʿAlī.[40]

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general,' meaning the governor over deputy-governors. I have chosen to reject this translation, preferring to translate only the term '*wālī*' as 'governor-general,' in the sense that the office combined both civil and military duties. I translate 'ḥikimdār' as 'civil governorate' because the phrase clearly defines the function of the office. The result of the distinction is that it emphasizes the differences between the Ottoman and Khedival governmental structures.

[37] Hofman, "Administration," 321–4. Fred Lawson develops the theme of the significance of the *tujjār* class in Muḥammad 'Alī's regime—and Baḥrī fits into that analysis. However, I would argue that these *tujjār* merchants served the Khedive's purposes at his pleasure, and could pursue their own interests only within the framework of Muḥammad 'Alī's political objectives. See Lawson, *Social Origins*, 64, 79–82, 142, and passim.

[38] During the French occupation of Egypt, area councils were established to mediate between the French government and the local people. These councils probably were models for the *Dīwān al-Shūrā* in Syria and its local councils, the *majālis*; Stanford J. Shaw, *The Financial and Administrative Organization and Development of Ottoman Egypt, 1517–1798* (Princeton: Princeton University Press, 1962), 24. However, the existence of local councils was not unknown in Ottoman Egypt even before Napoleon.

[39] Rustum, "Syria Under Mehemet Ali," 323 n. 60; *Mahfuzāt*, II:459, doc. 3721.

[40] Hofman, "Administration," 313 n. 15, 324–7.

The fact that Baḥrī, a Christian, was given these titles and responsibilities heretofore restricted to Muslims becomes less remarkable in light of Muḥammad ʿAlī's strategies to build up his own bureaucracy. His own struggle to win acceptance by the Imperial Court despite his *aʿyān* origins also played a role. The social mobility of non-Muslims under Muḥammad ʿAlī is one of the hallmarks of his rule. In this way he followed the same 'divide and rule' tactic used by the Ottomans, by creating a loyal and completely dependent bureaucracy as a counterweight to the locally well-established *ʿulamāʾ*. Other members of the Ottoman bureaucracy could do little to affect Muḥammad ʿAlī directly from Istanbul so long as the Ottomans did not have military control over *Bilād al-Shām*. However, the Khedival regime would have to contend with the *afandiyāt*, the *umarāʾ*, the *raʿāyā*, and the bedouin, all of whom had a vested interest in the Ottoman legal system.

This *Dīwān* was replicated throughout *Bilād al-Shām*. Under the supervision of the *Dīwān*, smaller councils in each capital city, each known as a *Majlis al-Shūrā*, met to implement and administer Khedival orders. Contemporary Western observers and modern scholars have viewed the establishment of these councils as a liberal step to rationalize the administration of judicial, economic, and municipal tasks. The language used by Hofman to describe the function of these councils, with his reference to "citizens" and "democratic means of municipal government," are clearly anachronistic. The reasons given by contemporary observers for the failures of the councils were accepted by Hofman, who concurred in attributing those failures to "[c]onservative customs" which "found it difficult to absorb such a far-reaching innovation."[41] Such descriptions and conclusions must be revised in light of our better understanding of the function of the *Maḥkama* under Ottoman administration, and in light of the political goals of the Khedival administration.

The purpose of these councils was to implement Khedival policies, maintain order, to provide the regime with economic information, and to collect and disburse revenues. Naufāl Naufāl Ṭarābulsī's contemporary account of the purpose and working of the *Majlis al-Shūrā* provides us with much more convincing data about its nature

[41] Hofman, "Administration," 331, 333. These councils were to be reinstitutionalized after the *Tanzimat* as the *sanjak meclisi*.

and function. His condemnation of Ibrāhīm Pasha's reign is searing.[42] Discussing the function of the councils, Ṭarābulsī states that the government appointed those who could effectively collect the *mīrī* taxes. The members of the councils were motivated to join them "for the sense of pleasure in being counted among men of influence and among those who could command and forbid in government affairs," and for the satisfaction of having "the sense of pride towards their opponents whose eyes were burning with jealousy for these privileges." The sessions were closed to all but the members of the council, hardly a democratic form of town hall.

The councils rarely interfered with cases which were not related ultimately to Imperial revenues and security. Their main business concerned land tenure issues, investigating village finances and the loss of *mīrī* revenues, conducting transactions for the government, drawing up contracts, and appointing local officials. The councils oversaw the auction of taxes for local parcels of land and then farmed them out to the highest bidders, replicating the Ottoman tax-farming system for the Khedival regime. Ṭarābulsī mentioned that the councils were also responsible for "detestable innovations such as the liquor tax and others at the mere hearing of which most people are disgusted."[43]

More important than their focus on taxation was their judicial function: the trial and conviction of its political opponents, who came to include those who had simply failed to carry out their duties to the regime. The magnitude of this change under Khedival rule cannot be overemphasized. In effect, the councils replaced the Islamic Court—and by extension, the Ottoman government itself. After hearing and sentencing political opponents to death, the council was responsible for confiscating their property following the executions

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[42] This account is paraphrased from Rustum's "Syria Under Mehemet Ali," 94–9. See section on the '*firda*' and '*ǐ'āna*' tax, below, for the significance of this report. Rustum's dissertation is a translation of a manuscript deposited in 1887 at the American University of Beirut entitled, "The Unveiling of the Chief Features of the Government and the Court Decisions of the Two Provinces of Egypt and Syria from the Time when the Ottoman Empire Conquered Them until Egypt was Distinguished by Hereditary Government and Syria was Adjusted by the Tanzimat"—a title which conveys the wry tone of the author, whose father was executed by Ibrāhīm Pasha. Rustum also published a translation of the forward and epilogue in the *Journal of the American University of Beirut.*

[43] Ottoman viticulture taxes were assessed on the vineyards, and not on the wine produced, in obedience to the Quranic strictures against intoxicating drink.

and returning it to the government fisc. Ṭarābulsī, whose own father was executed on Ibrāhīm Pasha's command, reported on the justice that was meted out by the *Majlis*: "investigations which were carried out in connection with persons who were suspected of crimes which the governor wished to have investigated, they were carried on in no way other than terrible torture." He mentioned various kinds of torture, including whipping and beating with canes, "measured not by the number of lashes but by the number of canes that had been broken in the process of beating." Ṭarābulsī mentioned the infamous Padre Tuma affair, better known as the Damascus Blood Libel Affair of 1840, in the context of the type of "investigations" conducted under the supervision of the treasury secretary, Baḥrī Bey, and Muḥammad Sharīf. Such investigations were not "left to the discretion of the gendarmes but were given special care and attention by the governor himself."[44]

On the local level, the *Dīwān* was reproduced in each town. Under the Khedival administration, the civil and military duties held in the past by the Ottoman *mutasallim*, or 'deputy-governor,' were reduced to strictly tasks of law and order, and the office was filled by local individuals. The *Qā'immaqām Naqīb al-Ashrāf* or *mudīr al-mutasallimīn*, Ḥusayn ʿAbd al-Hādī, served as the military governor and reported to Sulaymān Pasha. Egyptian military personnel, responsible for security issues, received much higher remuneration than the *mutasallim*s. Each *sanjaq*, under the Khedival government, as under the Ottomans, had a treasury, called the *Khazīnat al-ʿImāra*, which collected and disbursed the *waqf, mīrī*, and other tax revenues assigned to its inhabitants. With the Ottoman restoration, this post would be filled once again by an Ottoman appointee, as would the other posts of the city—the *mutasallim*, and the representatives of the important *awqāf* of the city.[45] Finally, the *mubāshir*, or 'chief accountant,' reported directly to Ḥanna Baḥrī and provided him with an accounting of local income and expenditures. In addition, he performed duties as

[44] Rustum, "Syria Under Mehemet Ali," 58–9, 102–3. For documents regarding the affair, which occasioned French and American involvement, and the condemnation of what today would be called 'anti-Semitism' by the American President Van Buren, see Rustum, *Uṣūl*, V:1–41. This affair in itself should have given observers and scholars pause in their assessment of the 'liberality' and 'tolerance' so often ascribed to the Khedival regime.

[45] See *LCRJ* 324–5 for Ottoman appointments and for legislation relating to the *Tanzimat.*

the *ṣarrāf*, or 'treasurer,' being responsible for collecting taxes, paying salaries, controlling expenditures, and maintaining financial records. By ordering detailed financial reports, comparable to the Ottoman practice of creating the surveys of population, tax revenues and expenditures known as the *tapu taḥrīr* and *mufaṣṣal* registers for every newly conquered locality, Baḥrī developed "a thorough knowledge of the financial situation in every area, the tax collection, customs, wages to employees . . . [and] military expenditure."[46]

It was at this level that Khedival policies affected the general population. Ṭarābulsī described the process of collecting information in minute detail. For every provincial or district capital, Ibrāhīm Pasha appointed a Christian to be the chief accountant (*mubāshir* or, alternately *bāshkātib*, 'chief clerk'). With directions from the regime, the *mubāshir* would go to each village and each agricultural parcel (*muqāṭaʿa*) in person, "to ascertain from the fellahin" the "amount of grain and money tax-farmers used to receive from them, about the taxes they paid for their cattle, and about returns, duties and presents they used to give at harvest time, feasts and celebrations, both large and small." Ṭarābulsī explained that the *mubāshir* had to do this "because theretofore contracts had been made with tax-farmers for specific sums as was current in Egypt before the rule of Mehemet Ali Pasha." The *mubāshir* was to make the agricultural workers (*fallāḥūn*) think that the aim of the government was to do away with oppressive exactions and relieve them from the formerly heavy taxes that they had had to endure. Believing him, the *fallāḥūn*, "in the hope of easing their burden," reported everything, "even the price of a horse [shoe] or that of a little pack of goat's hair one of them might have given sometime to the tax collector to help him mend a sieve or make a halter for one of his beasts of burden."

After the *mubāshir* had gathered all of this information, "he set their sum total, in its entirety, as a permanent tax upon the whole village and collected it every year like the rest of the *mīrī* taxes." The inhabitants of the village thus were held responsible for an additional tax.

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[46] Regrettably, these detailed records have not yet been located in the archives of Syria or Egypt, and copies of them were not made known to me in Jerusalem, if they exist at all. Hofman did not see the records, but only found mention of them in his sources. On the *tapu taḥrīr* and *mufaṣṣal defterleri* as historical sources and for a study of peasants in the Ottoman Empire, see Amy Singer, *Peasants*, especially 17–20.

In addition, the chief clerk conducted a census of the inhabitants of the cities and villages. Upon each he assigned the capitation tax known as the '*firda*,' set at ten rates that ranged from fifteen to five hundred *qurūsh*, according to their ability to pay.

Ṭarābulsī noted that Ibrāhīm Pasha "did not remit any of the old taxes except the church salamaniyyahs—a very trifling sum which the church paid every year to the treasury," and "the marriage fee which was collected by government officials from those of the Christians who wanted to marry." Ṭarābulsī explained that "it used to be impossible for a Christian to marry without paying government officials the tax they assigned to him."

Lastly, Ibrāhīm Pasha "prohibited the custom that allowed the kadis, muftis, and other effendis to take candles from the churches to their homes in the month of Ramadan." Ṭarābulsī shows how, "because of their simplicity," the *fallāḥūn* thought that Ibrāhīm Pasha had cancelled the marriage and candle taxes, "out of respect" for the church, and "that the imposition of the firdah was meant to bring the Moslem down to the same level as the Christians by making them pay a tax similar to the Jizyah." Ṭarābulsī pointed out their error. These peasants "regretted very much that they had made their reports, for what the tax-farmer had taken away from them once in a lifetime had come to be collected yearly." It was not only the peasants who suffered under this new tax regime. The tax-farmers themselves were deprived of their livelihoods and "the influence they had enjoyed in the provinces"—influence which was now centered in Cairo and Damascus, the capitals of the Khedival regime.

All other cases, "civil, criminal or commercial" were still subject to the jurisdiction of the *Maḥkama*, the Islamic Court. As under the Ottomans, civil cases were to be settled by the *mutasallim* with the sanction of the religious court, given when the cases were registered at the *Maḥkama.*

During the Ottoman centuries, the law court was located in the Mamluk building known as *al-Tankiziya*, built by the Mamluk governor of Damascus Amir Sayf al-Dīn Abu Saʿīd Tankiz in 1328.[47] This large building, located on the south side of *Ṭārīq Bāb al-Silsila*,

[47] This important building is virtually ignored in Auld and Hillenbrand's *Living City*, 115, 138, 600. Although built in Mamluk times, its function at the heart of Ottoman Jerusalem deserves recognition.

by the *Ḥaram* gate and partly over the west portico, had served during the Mamluk period as a Ḥanafī law school, *Ṣūfī* hospice, and women's lodge. *Shāfiʿī s*cholars taught in this building during the Mamluk period, which also served in a number of different capacities over the centuries. In the fifteenth century disputes were adjudicated there, and by 1483 the traveler Felix Fabri noted that the *Tankiziya* was the regular seat of the *qāḍī* of Jerusalem. The building's architecture lent itself to this purpose. On the ground floor is a roofed courtyard with an octagonal stone basin in the center. The basin contains a fountain and a shallow trough to collect and drain splashing water. Four *īwān*s, or 'portals,' decorate the walls of the courtyard. On the center of the south wall is a *miḥrāb*, or 'prayer niche,' indicating the direction of Mecca. This *miḥrāb* is notable because of its unusual design. Rare marble paneling, found only in Jerusalem, Hebron, and Damascus, is similar to that of the Dome of the Rock, *al-Aqṣā* mosque, and the *Ḥaram* in Hebron. This has led scholars to believe that all four buildings were decorated by the same team of artisans, who, after completing work on the Great Mosque in Damascus, went to work first on the *Tankiziya* and then moved on to *al-Aqṣā* and the Dome of the Rock and finally on to the *Ḥaram* in Hebron in the fourteenth century. The *miḥrāb* was decorated with ornate glass mosaics, and a beautiful enameled glass lamp, located today in the Islamic Museum of the *Ḥaram al-Sharīf*, was made for the *madrasa*. This building was certainly in a state of disrepair by the nineteenth century, but the elements described here nevertheless still conveyed a sense of harmony, majesty, and grandeur.[48]

The Islamic Court continued to play an important role throughout the duration of the Khedival regime in Syria. There are three levels of significance to this phenomenon. The first is mundane: the everyday business of the court had to continue to keep order and to maintain the stability of the economic and social life of the occupied territory. The next is a matter of local politics: Muḥammad

[48] Burgoyne, *Mamluk Jerusalem*, 223–39. Ben-Arieh, in *Jerusalem in the Nineteenth Century*, 162, mistakenly asserts that the towers of this buildings were razed by Ibrāhīm Pasha, based on S. N. Spyridon, 'Annals of Palestine 1821–1841,' *Journal of the Palestine Oriental Society* XVIII, nos. 1–2 (1938): 126. However, Neophytus is clearly discussing another structure outside of Jerusalem called the '*Barrānī*' which stood on the north side of the city, near the Jaffa Road, and a quarter of an hour distant from Jerusalem. Spyridon, 'Annals of Palestine,' 124–5.

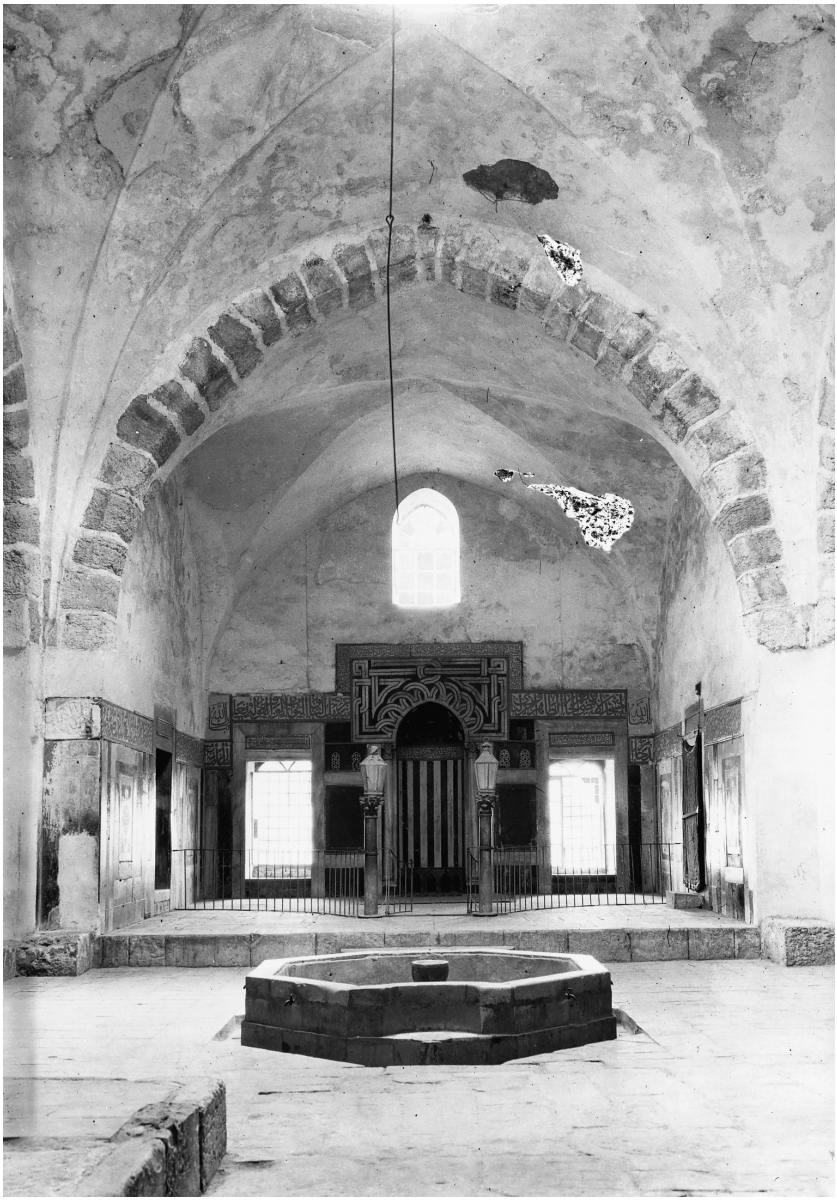

Fig. 2. Tankiziya, Interior (Courtesy of Creswell Archive, Ashmolean Museum, Oxford) circa 1920.

ʿAlī continued to recognize the authority of the *qāḍī* and his court in matters that did not directly concern the maintenance of order, the collection of revenues, or the implementation of the policies of his regime. The third level emphasizes the continuing Ottoman presence in *Bilād al-Shām*, notwithstanding the inability of the Porte to exercise political control over the area. The Porte continued to send chief judges to Jerusalem on a regular basis, ensuring that on the local level justice could still be represented by the Sultan-Caliph through the *ʿulamā'*.

However, the clerical staff of the court began to be responsible for duties owed to the Khedival regime. In addition to the traditional matters concerning the court, the clerks had to copy incoming records pertaining to the *Majlis al-Shūrā* of Jerusalem and the *Dīwān al-Shūrā* of Damascus relating to Jerusalem into the registers of the Islamic Court in Jerusalem. Each document clearly identified the authorities issuing the documents in question, and thus it is possible to distinguish the type of order or decision. These orders were collected into volumes as they were received by the court, where they were dated upon receipt and registration. Thus, the *Maḥkama* continued in its clerical function as a registry for official documents, and the chief clerk (*bāshkātib*) and his staff served the *mullā qāḍī*, the Ottoman government, and the Khedival administration. Unfortunately the financial documents pertaining to Khedival rule in Jerusalem were not among the many other documents included in the court registers of this period. These records were probably maintained by the *ḥikimdār*'s staff, and perhaps will be discovered some day in Damascus or Cairo.

While he may have established a new regime with its own statutes and policies, Muḥammad ʿAlī did not tamper with the everyday mechanisms of Ottoman justice in Syria unless they affected his interests. He developed alternative bureaucracies and procedures to implement his policies, but left intact those institutions which could serve to maintain the functioning of everyday life in Syria.

Under the Khedival regime, the *Majlis al-Shūrā* was designed specifically to administer the *Siyāsa*, the administrative policies formerly under the authority of the Ottoman military governor, and to collect state revenues, including those that had been the prerogative of the *Bayt al-Māl* under the *Sharīʿa*: the *mīrī* and the *jizya*. The *mullā qāḍī* was no longer even theoretically equal in stature to the *seʿasker*, as he had been to the *wālī*, and no longer authorized to oversee the

just distribution and collection of the taxes which found their sanction in the *Qurʾān*. The *Siyāsa* was formally separated from the purview of the *ʿulamāʾ*, and the application of the *Sharīʿa* was confined increasingly to matters of personal status. The ruler and his regime had absolute power, in no way moderated by the Ottoman Sultan's role as Caliph and the Ottoman legal system. Muḥammad ʿAlī and Ibrāhīm Pasha had no interest in the development of an office similar to that of the *Shaykh al-Islām* to ensure that the policies of their regime were consonant with Islamic law. Although the Khedive and his *serʿasker* would use *muftī*s to produce *fatwā*s in support of their policies, there was no one who could represent the interests of the *raʿāyā* at the highest level of government, despite the symbolic presence of the *muftī* of Damascus at the head of the *Dīwān al-Shūrā*. The local *qāḍī*s, who had no means to enforce their opinions, were left adrift, with only tenuous ties to the Khedival regime. The influence of the Porte on these judges must then be recognized as essential, as the judges continued to be appointed by Istanbul annually throughout the Khedival period.

In the final days of Khedival rule in Jerusalem, the responsibilities of the *mutasallim* changed. Muḥammad Sharīf Bey appointed Aḥmad Aghā al-Dizdār to the position, instructing him to enforce the "*Aḥkām al-Siyāsa*"—"the laws of the Khedival government," as well as to uphold the *Sharīʿa, Qānūn*, and *ʿUrf*. Further, the new *mutasallim* was ordered to collect the *mīrī* revenues in addition to the more general and typical instructions given to the appointees of this post.[49] The "*Aḥkām al-Siyāsa*" mentioned here were the new laws and policies decreed by the Khedival government. This broadened enunciation of the sources of law current in the government indicates that the Khedival government had by this time added a new body of law to those already in effect, which was called in this order "*Aḥkām al-Siyāsa*" and which had the same force as the Ottoman *Qānūn*. This term did not, however, refer to the new Criminal Code issued by the Ottomans in June of 1840 and received in Jerusalem in August of 1841.[50]

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[49] Rustum, *Uṣūl*, III/IV:234, no. 471, dated 9 *Dhū-l-Qaʾda* 1254/23 February 1839 and *LCRJ* 322, 154.

[50] *LCRJ* 325, 30–1. On the protection of the *raʿāyā* in Jerusalem in December 1840, see *LCRJ* 324, 56. Note that the date of the *Gülhane* Edict was 3 November 1839.

Muḥammad ʿAlī's independent promulgation of laws and his creation of a legal instrument to carry out his political will was in stark contradiction to Maḥmūd II's policies. Where *Siyāsa* had been construed to complement the *Sharīʿa*, Muḥammad ʿAlī now separated it from the purview of the *ʿulamāʾ* and began the process of independent juridical development. The importance of this aspect of Muḥammad ʿAlī's reign is apparent in the language of a late document marking the end of Egyptian law and the beginning of the Ottoman restoration.[51] It is notable that the phrase "the removal of the Egyptian statutes" (*izālat al-Aḥkām al-Miṣriya*) was used here to underline the significance of the legal aspect of the Khedival regime in *Bilād al-Shām*.

In sum, Muḥammad ʿAlī's reorganization of the government of Syria rested upon his overturn of the Ottoman provincial administration and its replacement by a new kind of regime—one that ruled by decree. While it is true that the Ottoman Sultans also ruled by decree, it was always within the context of a conscious commitment to uphold the *Sharīʿa* as the Caliph of the Islamic community, supported by the rulings of the *Shaykh al-Islām*. It was that commitment that legitimized and underpinned the Ottoman state. Muḥammad ʿAlī saw no need for this kind of organic continuity between himself and his subjects. He used legal bodies and authorities to garner public opinion, but not to organize and define the nature of his regime. Overall, this revision of the benign view of Muḥammad ʿAlī's 'modernizing' reforms is critical to understanding the unrest in Syria during the Khedival years. These policies were designed to further the centralization and militarization of the Syrian economy and to exploit it for the needs of the Egyptian economy. Muḥammad ʿAlī's strategic goals and the policies meant to achieve them would soon shake Jerusalem and all of Syria.

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[51] Rustum, *Uṣūl*, V:23–4, no. 595, dated 11 *Ramaḍān* 1256/10 November 1840. See also *LCRJ* 324, 44–5, and al-ʿAref, *Mufaṣṣal*, 315. The order appoints Aḥmad Aghā al-Dizdār as the *mutasallim* of Jerusalem and is the only document listing the names of the members of the Jerusalem *Majlis*. It was headed by Abū Suʿūd Afandī (*Raʾīs al-Majlis*), and was composed of the *Qāʾimmaqām Naqīb al-Ashrāf* Muḥammad ʿAlī al-Ḥusaynī, the *sayyid*s Khalīl Afandī al-Khālidī, ʿUthmān Afandī Abū Suʿūd, Darwīsh ʿAlī Afandī Zāde, Shākir al-Muwaqit, Najm al-Dīn al-Jamāʿī, Ibrāhīm al-Muhtadī, Muḥammad al-Ramlī, a certain Jārallāh, the clerk of the *Majlis*, and another clerk, Wafā Muʿayin, and the *dhimmī*s, called *khawaja* [*sic*]: Ronī, the representative of the Jewish community (*tāʾifa*), Yūsuf, representative of the Franciscans (*Ifrānj*—Catholics), and Yaʿqūb Hasir, from the Armenian community.

During this same period, Sultan Maḥmūd II continued to reform the bureaucratic organization of the Ottoman Empire, introducing fundamental change in the judiciary. Maḥmūd reaffirmed the concept of *ʿAdālet*, or 'justice,' as the basis of a body of legislation complementing both the *Sharīʿa* and *Qānūn*.[52] This change went beyond the '*Siyāsa*' of the 'Egyptian laws' (*al-Aḥkām al-Miṣriya*) enacted by the Khedival government.[53] The concept of justice had long been one of the fundaments of Ottoman government. Maḥmūd was striving to return to the classical ideal of just government through public law which, among other things, would define the duties of judges by prescribing the protocols and codes governing judicial activity under the rule of "*Aḥkām-i ʿAdilye*"—(Turkish) "Just Laws"—legislated to complement the *Qānūn* and the *Sharīʿa*.[54] In particular, the concept of justice related specifically to the classical Ottoman concern for just taxation and protection of the productive classes—the *raʿāyā*—from local abuses. The judicial changes that Maḥmūd II introduced into Ottoman life earned him the epithet "*ʿAdlī*" as Sulaymān the Magnificent was known in Ottoman history as "*Qānūnī*."

While Maḥmūd and Muḥammad adopted new educational, military, scientific, technological, and commercial policies, and in that way introduced 'modernity' to their people, in essence they were entirely different. Their relationship, with its roots in the eighteenth century conflict of provincial *aʿyān* with the Porte, was argued in the political language of reform and law. Maḥmūd II, facing great international challenges, did not hesitate to call upon foreign states for help against a rebellious vassal who was threatening the future of the empire.[55]

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[52] Halil Inalcik, "Adāletnāmeler," *Belgeler* II (1965) (Ankara: Türk Tarıh Kurumu Basimevi, 1967), and Hifzi Veldet, "Kanunlaştırma Haraketleri ve Tanzımat," in *Tanzımat*, ed. Maarıf Vekili Hasan Alı Yūcel (Istanbul: Maarıf Matbaası, 1940), 139–209. See also Joseph Sadan, 'A "Closed-Circuit" Saying on Practical Justice,' *Jerusalem Studies in Arabic and Islam* 10 (1987) 325–41; Cemal Kafadar, "The Myth of the Golden Age: Ottoman Historical Consciousness in the Post-Süleymânic Era," in *Süleymân the Second and His Time*, eds. Halil Inalcik and C. Kafadar (Istanbul: Isis Press, 1993), 37–49, especially 40–1 for a comment on "Kanuni."

[53] Rivlin, *Agricultural Policy*, 345 n. 22, mentions the *Qānūn al-Siyāsetname* promulgated in June/July 1837.

[54] *Ibid.*, 176–7. Halil Inalcik, 'Suleiman the Lawgiver and Ottoman Law,' *Archivum Ottomanicum* I (1969): 105–38.

[55] Engin Akarlı, "Provincial Power Magnates in Ottoman Bilad al-Sham and Egypt, 1740–1840," in *La Vie Sociale dans les Provinces Arabes á l'Époque Ottomane*, ed. Abdeljelil Temimi (Zaghouan: Ceromdi, 1988), III:41–56.

Let us now examine the policies and decrees of the Khedival regime and the first two years of their application in Jerusalem and elsewhere in Syria, and the reaction of the local population to these innovations, to see how they led to the rebellions of 1834 that were to wrack Syria.

Khedival Policies and Aims

Muḥammad ʿAlī maintained one clear goal throughout his occupation of Syria: the strategic defense of the conquered areas to safeguard his position in Egypt, his primary ambition being the establishment of dynastic control over the latter. The defense of Egypt depended on the use of Syria as a bulwark. The maintenance of a powerful army and navy was the prerequisite for the defense of both regions, and the establishment of law and order within Syria and the exploitation of all its available revenues were the prerequisites for a powerful army and navy. In pursuit of his strategic aims, Muḥammad ʿAlī made sure that the passes in the Taurus Mountains were fortified against Ottoman attack and that the roads along the northeastern frontier suitable for hauling artillery were defended by the erection of forts and other defenses. He totally rebuilt Acre and transformed it into a naval base. Throughout Syria he built garrisons, prisons, and watchtowers to assure the region's security.[56]

Among the physical structures attributed to him are the *Zāwiya Ibrāhīmiya* on Mount Zion, which he used for his own lodging and for travelers; the *kishla*, or 'garrison,' next to the Tower of David and the Jaffa Gate; a large citadel close to Solomon's Pools between the twelve and thirteen kilometer markers on the Jerusalem-Hebron Road, which would be the site of one of the most ferocious battles of the 1834 rebellion; and other citadels between Wadī Jūz and al-Ṭūr, in Wadī Jūz and south of the ancient citadel of Bayt al-Khālīl. He constructed a chain of citadels protecting the Jerusalem-Jaffa Road. The first windmill in Jerusalem was built in 1839 at his expense in the Western sector of the city. He also renovated an ancient palace on the Jismāniya Way and repaired the ancient aqueducts serving the city of Jerusalem.[57] In addition, as mentioned above,

[56] Rustum, "Syria Under Mehemet Ali," 13.
[57] al-ʿAref, *Mufaṣṣal*, 287.

Ibrāhīm Pasha rebuilt and improved the port of Acre.[58] The costs involved in securing the highways and towns of Syria were enormous, and Muḥammad ʿAlī resorted to the same basic means to achieve his aims as he had in Egypt: monopolies, centralization, taxes, and forced labor.[59] Ibrāhīm Pasha was authorized to implement policies to increase conscription, disarm the population, centralize all existing sources of production and revenue and place them under the direct control of Cairo, increase commercial activity, and to develop new sources of production and revenue.

While the first priority of the Khedival government had been to secure the area against sea or land attack by the Ottomans, its second priority was to safeguard the highways and cities from incursions by the rebels and outlaws who continued to dog Ibrāhīm Pasha throughout the entire period of Khedival rule in *Bilād al-Shām*. After firmly establishing control of Syria, the Khedival government's third priority was to improve living conditions in the area to further the exploitation of all of the area's natural resources, agricultural production, and manufactures. Ibrāhīm Pasha is remembered for the strong hand with which he governed the area, and the fortifications and infrastructure that he built to safeguard travel and commerce.

Monopolies

In early 1834 the Khedival administration in Beirut attempted "to monopolize the meat, wool, wine and spirits of the town. Every article of course rose immediately in price, and as there appeared a disposition not to submit to this, and the garrison is weak, after three days it was abandoned, though . . . the Pacha has succeeded at Damascus and other large towns."[60]

Richard Wood, in his "Summary Report on Syria" written in 1834 for Lord Ponsonby, observed that unlike the days of ʿAbdullāh

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[58] Rustum, *Notes on Akka*.

[59] On Muḥammad ʿAlī's monopolies in Egypt and the territories he occupied, see Charles Issawi, *An Economic History of the Middle East and North Africa* (New York: Columbia University Press, 1982), 19–20, and Issawi, *The Economic History of Turkey, 1800–1914* (Chicago: The University of Chicago Press, 1980), 97–100.

[60] *F.O.* 78/245; extract from letter from Mr. Catherwood [a traveler] to Col. Campbell, Beirut, 27 February 1834.

Pasha, when the inhabitants of the area suffered oppressions but "commerce enjoyed perfect liberty" the Khedival government had extended monopolies "on almost every article of trade, not even exempting the selling of meat and fish." These monopolies were confined mostly to products for domestic consumption, not export. Wood concludes that since the establishment of Khedival rule "commerce has grown stagnant, owing to the bad policy . . . arising from the baleful consequences of monopolies."[61]

Some of these monopolies seem quite remarkable, but actually were common—in sixteenth-century Ottoman Hungary, for example, "many sipahis enjoyed the monopoly that is a seigneural right to the monopoly of selling wine during certain months of the year."[62] The tax on wine and spirits, to the inhabitants of Jerusalem, clearly went beyond any Ottoman laws with which they were familiar, and was "singular as publicly licensing that which by law is prohibited . . ." In Jerusalem, the revenue raised from this source was £18,000, compared to £200,000 from Damascus, £190,000 from Aleppo, and £16,000 from Beirut. More amazing was the attempt to tax "public women." Consul Farren reported that "tenders were actually made here [in Damascus] for farming it amounting to about £2,000 a year from Damascus alone." The attempt to tax prostitution, he wrote, "caused such a sensation, and was likely to lead to so many inconvenient results in defining, detecting, and bringing under contribution the people subject to this tax, that it was abandoned." Instead, the government tried to respond to the public outcry at first "by hunting them [the prostitutes] up from the several parts of the city in which they had scattered, and ordering them henceforth to locate only in three of the quarters." Finally, "the matter was more comprehensively and practically treated, and the scandalized morals of the public propitiated" when it was ordered "that all such women should either repent, marry, or be turned out of the city."[63]

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[61] A. B. Cunningham, ed., *The Early Correspondence of Richard Wood: 1831–1841* (London: Offices of the Royal Historical Society, 1966), 49–51. In a footnote, Cunningham notes that the influx of British merchandise led the Egyptians to farm the customs of Syria at three times the 1829 valuation. *Ibid.*, 50 n. 1.

[62] Suraiya Faroqhi in a note to the author.

[63] *F.O.* 262, 30 April 1835, Damascus, Farren to Wellington. The shocking nature of these policies to the Syrians and European observers notwithstanding, taxes on prostitution existed under the Ottomans, but not in Syria, where public opinion would not accept such innovations.

The farming of the tax on making and selling wine and spirits continued throughout the occupation of Syria, and in 1838 was sold for 85,000 *qurūsh*. The government imposed, in addition, a duty on imported grapes, in any form, of one hundred ten per cent to protect the tax-farmer from imported wines.[64]

Muḥammad ʿAlī's system of monopolies was very much resented by the Europeans. It was also resented by the Porte, which sought to weaken Muḥammad ʿAlī by breaking his control of the economy of Syria, although Istanbul itself had developed a monopoly system as well. According to Helen Rivlin, the Porte, despite its reluctance to surrender the important source of revenues that the sale of monopolies brought to the government, was ready to give British free trade a try, if it would help to bring Muḥammad ʿAlī under control. "The first important step came when the Sultan consented to instruct Muḥammad ʿAlī to rescind his order of July 1834 prohibiting the export of raw silk from Syria." Near the end of 1835 Maḥmūd II ordered Muḥammad ʿAlī "to remove all obstacles to British trade in Syria. Although some fear prevailed in Turkey and Europe that Muḥammad ʿAlī would refuse to comply with the Sultan's command, thereby causing an international crisis, the Pasha promptly consented to obey."[65]

Muḥammad ʿAlī, interested by now in improving his own relations with the European powers, went along with the Sultan on this. Encouraged, the Porte entered into negotiations with Britain, the leader of the 'Free Trade' movement, and signed the Anglo-Turkish Commercial Convention of 1838.[66] This agreement, which aimed specifically at Muḥammad ʿAlī's monopolistic policies, "prohibited all monopolies, allowed British merchants to purchase goods anywhere in the empire without payment of any taxes other than import or export duty. . . . The convention was to apply to all parts of the empire, and specifically to Egypt. The other powers soon acceded to it, and their consuls ensured its implementation."

At first Muḥammad ʿAlī refused to comply with the agreement, and then, by using various pretexts, delayed compliance until after the withdrawal of the Khedival army from Syria.[67] In relation to

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[64] *F.O.* 78/368, 7 October 1839, Young to Campbell.
[65] Rivlin, *Agricultural Policy*, 183.
[66] Text of agreement in Issawi, *Economic History of the Middle East*, 19–20, 39–40.
[67] Rivlin, *Agricultural Policy*, 184–6.

Jerusalem, this agreement was largely irrelevant. Muḥammad ʿAlī's real source of control over the Syrian economy ultimately had less to do with trade than with his control over the *mīrī*, *jizya*, and Imperial *awqāf* revenues—it was these that mattered, both to his own government and to the Sultan, who aimed to reclaim his prerogatives in Syria. In particular, in Jerusalem there was no significant commercial trade on the scale of that in Damascus, Alexandria, or Aleppo.[68]

Campbell rightly pointed out the difference between the monopolies used in Turkey and those employed by Muḥammad ʿAlī in Egypt and Syria, where land tenure was at issue, and where the monopolies "[we]re complicated by their connection with the miri, or land tax—with the advances made by the government to cultivate and with the Mohammedan laws as to the sovereignty exercised by the ruler over the soil."[69]

Taxation

The issues of justice and taxation were at the crux of the dispute between Muḥammad ʿAlī and the Porte throughout the Khedival occupation of Syria. Ibrāhīm Pasha's order of August 1832 abolishing the *mīrī* taxes and canceling the annual salaries of Ottoman officials in the Provinces of Damascus and Aleppo signaled his intent to establish a completely new tax system. As early as December 1832 Baḥrī Bey, upon receiving a financial report concerning Jerusalem, ordered the payment of the "late *mīrī* tax" to his treasury.[70] It is clear that this money was to go to the Khedival government, and not the Porte.

Under Ibrāhīm Pasha, the Muslim inhabitants of Syria were to pay a new capitation tax called the '*firda*,' which most people, Muslim, Christian, Jewish, and European, saw as equivalent to the *jizja* tax on non-Muslims. The *firda* was a tax levied in 1834 on all males

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[68] James A. Reilly, 'Damascus Merchants and Trade in the Transition to Capitalism,' *Canadian Journal of History* 27 (1992), 5.

[69] Quoted by Rivlin, *Agricultural Policy*, 184, and 346 n. 32.

[70] *LCRJ* 317, 67. No amount was specified. We do not know if the city complied with the order as outgoing responses to incoming orders were not recorded in the registers.

from twelve years up of all faiths, varying from fifteen to five hundred piasters according to the means of each individual, and apparently replacing the *jizya* on the *dhimmī*s. In Damascus "it constituted one third of the whole revenue of the government and as far as we know there is no reason why it should have been less elsewhere in Syria."[71]

In addition to this new capitation tax, as indicated by Ṭarābulsī in his description of the *mubāshir*'s duties cited above, Ibrāhīm Pasha resorted to extraordinary levies and exactions to supply his army. This was the sort of exactions that often had been pressed upon the people by other pashas, contrary to the directions of the central government in Istanbul. Ṭarābulsī described another "permanent tax" which the "*bash-katib . . . set . . . upon the whole village and collected . . . every year like the rest of the miri taxes. The inhabitants of the village, many or few, were . . . held responsible for an additional tax.*"[72] This kind of tax had been known under Ottoman law as '*imdād*,' imposed to help raise revenues in times of war. In this case, it was named the '*iʿāna*' tax, and was imposed upon everyone.

For the Muslim inhabitants of the city of Jerusalem, who were exempted from all taxes under the Ottomans, this was an outrage. According to Ṭarābulsī, Ibrāhīm Pasha himself arrived in Nablus in 1833 (1249), well before the outbreak of the Rebellion of 1834, to assess the Jerusalemites' share of the "Ianah tax."

The intrusion of the Khedival regime into the heart of Muslim Jerusalem's affairs was felt on 24 January 1834 when the *ḥikimdār* confirmed the appointment of the *muftī* of Ramla upon the death of his father, rather than waiting for confirmation from Istanbul.[73] Shortly thereafter, the court registers reveal the result of the imposition of the *iʿāna* tax in Jerusalem. On 26 March 1834 an exemption of "the people of the city of Jerusalem itself" (*āhāli nafs al-balda* [*sic*] *al-quds al-sharīf*) from the *iʿāna* tax was recorded.[74] This order was scrawled

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[71] Rustum, "Syria Under Mehemet Ali," 17–8. In Egypt, Muḥammad ʿAlī had begun imposing a kind of '*firda*' tax in 1805–1807, and, with his ongoing policy reformulations, imposed another '*firda*' in 1810 on the '*ulamā*' incensing them even more. Lawson, *Social Origins*, 68–9.

[72] *Ibid.*, 97–9. Emphasis mine. For a deeper look, see my "The Iʿana Tax, Conscription, and the Urban-Rural Alliance against Muḥammad ʿAli in 1834: The Case of Jerusalem," in *Histoire, Économique et Sociale de l'Empire Ottomane et de la Turquie*, ed. Daniel Panzac (Paris: Peeters, 1995), 415–25.

[73] *LCRJ* 318, 70.

[74] *LCRJ* 318, 85. Halil Inalcik pointed out the identification with the *imdād* tax. See Cohen and Lewis, 13, *Population and Revenue*, on the Ottoman formulation

in haste, and one senses either anger or urgency, or perhaps both, in reading it in the original. It can be assumed that this exemption was allowed only because of the strong reaction it had caused among the inhabitants of the city. However, unlike the well-documented *firda* tax which received considerable attention in the contemporary record, as well as in later scholarly analysis, there was no mention of the significance of the *i'āna* tax in the Western literature of this time, although much mention is made in general of the imposition of heavy and arbitrary extraordinary taxes. The appearance in the Jerusalem court register of the exemption of the people of Jerusalem from this tax, coupled with the scattered evidence drawn from the Ṭarābulsī manuscript, indicates that the institutionalization of formerly illegal forms of taxation into a lump tax on Muslim communities made a powerful impact upon the willingness of the inhabitants of Syria to accept the continuation of Khedival rule.

'*nefs-i*' concerning taxes imposed on a city as a unit. The word *i'āna* is derived from the same root as *'awan*, the familiar term rendered as 'avania' by European observers of the Middle East and which had the general sense of illegal taxes and other exactions. Abraham Marcus has asserted that *'awan* meant that these levies were imposed on "contrived pretexts" and described the practice of "issuing intolerable orders with the purpose of obtaining payments for rescinding them; and making various services and benefits dependent on bribes and exorbitant fees." Marcus, *Eve of Modernity*, 95. However, here the term *i'āna* clearly refers to a specific tax. The meaning of the word is given by Hans Wehr as "help, aid, assistance, succor, relief, support, backing . . ." in *A Dictionary of Modern Written Arabic* (New York: Spoken Languages Service, Inc., 1976), 659. Redhouse gives "help, aid, assistance" as well in his *Lexicon*, 139. Ṭarābulsī, as will be seen below mentions it several times, but Rustum transcribed it in various forms and evidently never pinned down the term. Ṭarābulsī reports that in one case, some men were exempted from the "inah" tax as "recompense for their services." Rustum, "Syria Under Mehemet Ali," 71. Hofman, "Pa'alo," 166, refers to it once, noting a document from Rustum's *Mahfūẓāt*, 339, doc. 6302, from 27 *Rab'ī I* 1256/25 May 1840 which reported that 15,000 *kīs* were generated by the *i'āna* tax. At the Sixth Annual Conference on the Economic and Social History of the Ottoman Empire held in 1992 at Aix-En-Provence, France, Dick Douwes of the University of Nigmegen (Netherlands) told me that he found reference to the *i'āna* tax during his researches in Hama. I would like to thank him for his comments. Two Ottoman documents using this term are quoted in Barnes' *Religious Foundations*, 111 and 121. It is interesting that the term *iane* is interpreted within the texts as a 'donation.' In the first instance, the term is used for a fee paid from the revenues of a mine and in the second from the revenues of the state treasury to the *awqāf* treasury during a later period. The fact that the term is explained within the government documents themselves indicates that the usage was either new or unfamiliar. An understanding of *i'āna* as 'donation' is an ironic twist on the origins of the word, which carry the connotation of coercion, and is related to yet another term (*'auna*) used for forced labor. 'Forced donations' probably does convey the meaning of the term to the unfortunate Syrians who had to pay it to Muḥammad 'Alī.

Ṭarābulsī provides us with a vivid picture of the kinds of hardships the taxpaying inhabitants of Syria faced under Khedival government. Besides the lawful and assorted unlawful taxes imposed over the years by provincial governors-general, farmers under the Khedival regime were forced to sell their grain to the government at prices fixed by the *Dīwān al-Shūrā*. The grain had to be delivered to government granaries, often at a distance of several days' march, where two different sets of weights were used for sale or purchase.[75]

Other burdens were heaped upon the Syrians. Public works resulted in the use of corvée labor. Ibrāhīm Pasha's "palace at Antioch and his baths at Tiberias and Alexandretta were only a few of the more important structures that were soon built throughout Syria." His plantations in Acre, Beirut, Sidon, and Tripoli benefited from the labors of taxpayers forced to supply and plant trees. Ibrāhīm required the chief officers and wealthiest inhabitants of Syria to take upon themselves the restoration of ruined villages and the cultivation of lands belonging to those villages. He also used corvée labor to exploit the coal mines of Mount Lebanon and the wood of Alexandretta.[76] There were other serious illegal practices as well. Military officers expropriated livestock and beasts of burden, essential to agricultural work. To avoid permanent losses, the owner would hire a man to accompany the animal, feeding it and bringing it back when it was no longer needed. Villagers began to avoid larger towns so that they would not be pressed into service. People were forced from their homes to quarter soldiers. Churches and schools were closed to

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[75] Rustum, "Syria Under Mehemet Ali," 13–4, 17–8, 149.

[76] Vere Monro, *A Summer Ramble in Syria* (London, n.p., 1835), I:34 and Sir John Bowring, *Report on the Commercial Statistics of Syria* (London, n.p., 1840), 9–10. Rustum added that "[a]round Acre the corvée had become intolerable as early as 1833. For thirty miles arounf [*sic*] everybody—man, woman or child—was compelled, Monro tells us, to contribute his own share towards the rebuilding of the town and its fortifications. In many cases the villagers had to carry lime and timber on their own shoulders, and over several miles, notwithstanding the fact their horses and mules had been seized for similar purposes," 16, 148–9. He also added Monro's remarks that "[t]he material that was used in the construction of the Pasha's bath at Tiberias had to be secured from Acre itself, for Ibrahim wanted to have his bath built of the spoils of Abdullah Pasha's bath. The wood with which it was lined had to be brought down from Mt Lebanon, for nothing less than cedar wood could have satisfied the ambition of the victorious general." Monro, I:302; II:34. It should be recalled that the people of Acre had endured the corvée under ʿAbdullāh Pasha as well.

become ammunition and munition depots.[77] It was not only townspeople and villagers who were forced to provide services to the Khedival government. The bedouins of the *sanjaq* of Gaza, for example, were given the right by the Ottoman government to transport eight hundred and fifty loads of grain to Ma'an for the use by pilgrims in lieu of taxes. Ibrāhīm Pasha deprived them of the income that they had derived from this service and compelled them instead to pay an annual tribute of five hundred thousand *qurūsh.*[78]

These excesses clearly represented tyranny and oppression to the *raʿāyā*. Under the Ottomans they had certain, clearly defined obligations to the government, obligations which included paying their taxes, quartering soldiers for limited periods of time, performing labor services, and providing certain staples to government officials. These obligations were well known, and the impositions of the Khedival administration exceeded the limits of Ottoman law and went against the standards of justice upheld by the Porte and its representatives.[79]

These impositions clearly violated the Ottoman *Qānūn* and norms of justice and undermined Khedival rule in Syria, but by themselves did not lead directly to rebellion, although some peasants began to flee the region. Under Ottoman rule, this was a sure indication of improper government, since keeping the *raʿāyā* at work in their fields was the foremost priority of Ottoman land policy. [80]

Conscription and Disarmament

Asad Rustum writes, "It was not until disarmament and conscription were enforced that real trouble began."[81] It was conscription that undoubtedly infuriated the Muslim communities of Syria more than any other single policy. The Muslims of Jerusalem, who, under Ottoman law were exempted from all military service, were especially incensed. On 25 April 1834 Ibrāhīm Pasha convoked all of

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[77] Rustum, "Syria Under Mehemet Ali," 99–101.

[78] Cunningham, *Correspondence of Richard Wood*, 241.

[79] Again, see Singer, *Peasants*, 44–63, for the classical tax regime in Ottoman Jerusalem and its environs.

[80] On Ottoman attitudes and laws concerning peasant flight, see Singer, 'Peasant Migration,' 49–65.

[81] Rustum, *Disturbances*, 18.

the leaders from Jerusalem and Nablus and ordered the conscription of one out of every five Muslims, beginning in Jerusalem, where he called up two hundred men. Altogether fifteen hundred were taken from the area around Jerusalem, two thousand from Nablus, and five hundred from Hebron.

Beginning in 1833, Muḥammad ʿAlī had required conscripts in his armies to fight in the Hijaz and Yemen to suppress insurgencies against the Porte, as well as to control the population of Syria. This points up the paradox at the heart of the relationship between the Porte and Muḥammad ʿAlī. Though the latter was a rebel, the Ottoman government could and did rely upon him to reassert their control in their territories, at the risk of seeing them fall under his control as well.[82]

When the *mutasallim* of Nablus arrived with the order of conscription for his district, according to an eyewitness he

> assembled the sheiks and communicated the order, to which they appeared to object. In person he then proceeded through the town attended by armed men, for the purpose of inscribing the names of the conscripts when a shrill cry peculiar to those parts on occasions of danger, burst out and was echoed from different quarters. Instantly the whole town was in arms and the people rushed out tumultuously to the menaced point. The Governor was seized when he avowed that he was the unwilling agent of an order which invaded their hereditary privileges and that he would act in concert with them in resisting it. The Sheiks then declared that they were ready to sacrifice their property to the Pacha's orders, but they bound themselves by a man to oppose force to force, if he attempted such a violation of their dearest natural rights. This spirit passed from mountain to mountain and the cry of war and defiance is now heard along the Jordan from Nablous to Hebron.[83]

Rustum noted that the first call for conscription resulted in massive flight into either Ottoman territory, the Lebanese hills, or the Hauran. Other young men maimed themselves and mothers disfigured their young children: "some were blinded and others had their fingers cut

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[82] Salih Özbaran, 'A Note on the Ottoman Administration of Arabia in the Sixteenth Century,' and Caeser E. Farah, 'Reaffirming Ottoman Sovereignty in the Yemen 1825–1840,' *International Journal of Turkish Studies* 3:1 (1984–5): 93–116. In fact, Muḥammad ʿAlī would withdraw from Syria, Yemen, and the Hijaz only in 1840.

[83] *F.O.* 78/243 Farren to Palmerston, 23 May 1834.

off."[84] Christians tattooed themselves with crosses to ensure that they would not be enrolled. Reports of men dressing as women and fleeing to Anatolia and Persia were recorded.[85] As if to underscore the hatred of the people toward Ibrāhīm Pasha, it was reported that in order to "evade the severe military conscription under Egyptian rule, some of the Arabs of this district (Abū Ghūsh) put out one of their eyes; but Ibrāhīm Pasha counteracted their purpose by forming a 'one-eyed regiment.'"[86] These peasants feared conscription into the new style of army, the high casualties of modern warfare, the length of service and the distance to the battlefield, and had no interest in the reasons for the far-off battles in the Hijaz, Yemen, and the Balkans in which they were to be engaged. Conscription into the Egyptian and Ottoman army was very different from fighting local governors-general with whom they had personal grievances.

In April, 1834 it was reported that

> upwards of 2000 peasants were confined in the castle of Jerusalem . . . on the demand of arms. . . . Four thousand were at once demanded from the province of Nablous and large bodies have been escorted to the coast from whence they are to be sent to Egypt. About 4000 conscripts have been taken in this manner from the provinces of Nablous, Hebron, and Jerusalem.[87]

Within a month, a general rebellion would break out that nearly ended Muḥammad 'Alī's control over Syria.[88]

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[84] Rustum, "Syria Under Mehemet Ali," 18–23.

[85] *F.O.* 282 Alexandria, 18 February 1836 and 10 July 1836, Campbell to Palmerston.

[86] William Francis Lynch, *Narrative of the United States' Expedition to the River Jordan and the Dead Sea* (1849; reprint New York: Arno Press, 1977), 428.

[87] *F.O.* 78/243, Damascus 18 April 1834, Farren to Palmerston.

[88] On the subject of conscription in Egypt under Muḥammad 'Alī, see Rivlin, *Agricultural Policy*, 201–12.

CHAPTER FIVE

THE REBELLION: SUMMER 1834

Scholars have often made mention of the Rebellion of 1834 in their histories of this period.[1] Nevertheless, the singular importance of this event has not been adequately explained. Initially Ibrāhīm Pasha had successfully co-opted the *umarā'* of the Nablus region into his government. His most faithful ally from southern *Bilād al-Shām* was Ḥusayn ʿAbd al-Hādī, who was appointed *mudīr* of Sidon in 1833 and who served throughout the Khedival period as mediator between Ibrāhīm Pasha and the other *umarā'* of the Nablus region. At first, the administration of the Nablus region continued to rest upon the rivalries of the various families, rivalries which shaped their relationships with the governing power. However, as the thrust of the government's policies began to be felt, old rivalries began to fade and in 1834 even the allies of the ʿAbd al-Hādī family, notably the Ghāzzī and Samḥan clans, joined the opposition to Ibrāhīm Pasha.[2]

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[1] See Kimmerling and Migdal, *Making of a People*; Divine, *Politics and Society*; and Abir, "Local Leadership." See also Gabriel Baer, *Fellah and Townsman in the Middle East: Studies in Social History* (London: Frank Cass, 1982). Baer thought that the "local rural notables of the hilly areas in Palestine resisted conscription decreed by the Egyptian government [in 1834] because this would have undermined the patron-client relationship between them and their fellahs," 259. I think that the reason for their resistance was the nature of the military service required, as argued in Chapter Four. Baer felt that the revolt against Ibrāhīm Pasha in 1840 "was the result, inter alia of the introduction of an oppressive system of taxation by the Egyptian government," 261. Again, it is the argument here that rebellion was a basic reaction to a completely oppressive system entailing taxation, conscription, monopolization, and economic collapse of Syrian markets under Khedival administration. However, Baer rightly noted the relationships between urban and rural populations in Syria and Palestine, where he wrote ". . . [C]ontrol of rural income (mainly in the form of tax farming) was in the hand [*sic*] of powerful urban notables among whom the *ulama* played a prominent role. . . . as an integral part of the class of urban notable families," 278. This generalization only hints at the disposition of land during the Ottoman period in Palestine, in both the pre-*Tanzimat* and *Tanzimat* periods. Many of the other points made in Baer's work ought to be reconsidered in the light of this and other recent research.

[2] Abir, "Local Leadership," 288–9. Following the withdrawal of Ibrāhīm Pasha from Syria in 1840, Ḥusayn ʿAbd al-Hādī retained the government of Nablus, much to the dismay of the people remaining in the town, who objected strenuously to

Only the ʿAbd al-Hādīs were to remain loyal to Ibrāhīm Pasha throughout the occupation, although the Abū Ghūsh clan ultimately joined forces with him as well.

That opposition was already very strong. Ibrāhīm Pasha was quick to abolish the right of the Abū Ghūshes to collect the toll from travelers, merchants, and pilgrims on the road between Jaffa and Jerusalem, an action that ʿAbdullāh Pasha himself had contemplated.[3] All of the *umarā'* had been on alert because it was clear that ʿAbdullāh Pasha had been ordered to implement the Porte's own military reforms. Thus, the Ṭūqān family, formerly ʿAbdullāh's allies, had been among the first to greet Ibrāhīm Pasha—and were among the first to oppose him as it became evident that the Khedival government had similar intentions to build a new army, based on a Western model.

Despite Ibrāhīm Pasha's initial abolition of all extraordinary taxes and other illegal levies upon entering Jerusalem, his economic policies had an important impact upon the Muslims of *Bilād al-Shām*.[4] Indeed, the economic policies of the Khedival government brought very real changes to all four groups that participated in the Rebellion of 1834. These groups were: the *afandiyāt* of Jerusalem, the majority of the *umarā'* of Nablus, the Abū Ghūsh clan north of Jerusalem and their allies the Samḥan clan, and bedouin Arabs of the Bethlehem and Hebron regions. The latter two groups, in particular, opposed Ibrāhīm on economic grounds, since he had taken away their traditional rights to collect fees for services, and had imposed the *firda*, extorted tribute, and in return for the right of pasturage, required them to transport grain for the army. While it is clear that the Abū Ghūsh clan had come to be viewed as dangerous highwaymen, not toll collectors, and the bedouin had overstepped the limits of their prerogatives and had become marauders, the origin of their rights to collect fees for services was to be found in Ottoman law. The

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the Porte, petitioning for the appointment of the son of Qāsim al-Aḥmad instead. See Cunningham, *Correspondence of Richard Wood*, 183–4 and 198.

[3] Abir, "Local Leadership," 301.

[4] Rustum, *Disturbances*, 44. Once again, Rustum has provided a detailed examination of this subject that is still worthy of consideration. In this monograph, he argues convincingly that neither the Porte nor Russia instigated the rebellion, as had been alleged by other students of this subject. I differ with him in his conclusion that "the economic policy of Ibrahim Pasha . . . could not have been a serious cause of complaint in 1834," 46, but agree that the immediate cause of the rebellion was the conscription order detailed below.

new obligations enforced by the Khedival government were beyond their ability to pay. They were forced to take flight or face imprisonment, death, or conscription.[5]

These groups suffered economically and politically under Khedival rule. In 1833 Ibrāhīm arrested the leaders of the Abū Ghūsh family, including the elder Ibrāhīm, and sent them to work in labor gangs in Acre.[6] From 1833 on, Ibrāhīm Pasha pursued a constant war against the bedouin in his attempt to maintain law and order on the highways of *Bilād al-Shām*.[7] For six more years he would pursue the ʿAmrū bedouin of the Hebron region, including the rebel leaders ʿIsā ʿAmār and ʿAbd al-Raḥmān ʿAmār, but to no avail.

The monopolization of Syrian commerce had begun to affect the area by 1834. The creation of new categories of taxation went against both the Ottoman *Qānūn* and Islamic law, stirring Muslim antagonism toward the Khedive. However, it was conscription that ultimately caused some of the notables of Jerusalem and Nablus, led by the *mutasallim* of Jerusalem, Qāsim al-Aḥmad (who had stepped into the position replacing his son Yūsuf) to join forces with Ibrāhīm Abū Ghūsh of Qiryat ʿInab and ʿIsā ʿAmār of Dūra in the district of Hebron to combat Khedival rule.[8]

In Jerusalem, unrest against the Khedival government had arisen initially following the receipt in the *Maḥkama* of the order from Muḥammad Sharīf Pasha for payment of the late *mīrī* tax on 15 December 1832.[9] Presumably it was known that Ibrāhīm Pasha had announced that August that the Ottoman *mīrī* tax had been abolished, along with the other benefits enjoyed by the *ahālī* of Jerusalem. It was also known that Ibrāhīm Pasha had no intention of delivering any of these revenues to the Porte. Over the next two years resistance did not escalate rapidly as Muḥammad ʿAlī and Ibrāhīm

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[5] *F.O.* 78/246, 30 June 1834, "Journal of Col. Campbell"; Cunningham, *Correspondence of Richard Wood*, 51.

[6] Abir, "Local Leadership," 307.

[7] Indeed, Ibrāhīm Pasha was extremely harsh to the Hawwara bedouin in Egypt and *Bilād al-Shām*, especially around Acre. Originally from North Africa, they had a reputation as robbers and mercenaries, subjecting the countryside to raids and terror. Ibrāhīm Pasha at first tried to employ them in his service, but soon began a campaign to "extinguish the tribe altogether. . . ." William Thomson, American Board to Foreign Missions, in the *Missionary Herald*, vol. 31:10 (1835): 370. See also Richmond, *Advance*, 42; and Cunningham, *Correspondence of Richard Wood*, 216.

[8] Robinson, *Biblical Researches*, 359.

[9] *LCRJ* 317, 67.

Pasha allowed affairs in the region to be managed by local officials. However, once the regime began to institutionalize its occupation of *Bilād al-Shām*, they began to implement the new tax system. The next germane document recorded in the registers of the court was entered on 26 March 1834. This was the order which exempted the people of Jerusalem from the *ʿīāna* tax. Exactly what events preceded this concession can only be surmised on the basis of the evidence provided by Ṭarābulsī concerning later rebellions that broke out in the Lebanon and Syria against Ibrāhīm Pasha. In these accounts the rebels specifically demanded the alleviation of the "Ianah tax."[10]

The tax exemption granted to the Jerusalemites in March bought some time for Ibrāhīm Pasha. But about a month later on 25 April 1834 the Pasha convoked all of the leaders of Jerusalem and Nablus, ordering the conscription of one out of every five Muslims, beginning in the city of Jerusalem with the call-up of two hundred men. Another three thousand five hundred men from the *sanjaq*s of Jerusalem and Nablus, and five hundred from Hebron were also demanded at that time.[11] Hatred of the Khedival government coalesced the notables of Jerusalem and Nablus in opposition to Ibrāhīm Pasha's attempts at creating a 'modern' army out of local conscripts. According to a famous contemporary account of Ibrāhīm Pasha's meeting with the notables, the aims of the Pasha, and the latter's reaction, were clear. Ibrāhīm Pasha asked them, "As we, Moslems, have as perpetual enemies the Nazarene nations, is it or is it not necessary for us to have a big standing army?" which they answered by saying, "Yes, undoubtedly it is necessary." The Pasha then asked, "If so, from whom shall we take men for this army, from the Christians or from the Moslems?" to which they answered, "From the Moslems, assuredly." Ibrāhīm then reportedly said, "It is necessary for you, if you are true Moslems and wish the welfare of the nation, to send in your young men from every city and from every village, so that

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[10] Rustum, *Syria*, 114. During a similar rebellion in the Lebanon, the Amīr Bashir Aḥmad al-Lami [*sic*] called for the abolition of the corvée, the removal of restrictions on the sale of soap, the retention of arms, and the "alleviation of the Ianah tax." Ṭarābulsī also chronicled another instance: in the vicinity of Beirut, the people who had fled conscription refused to return unless the following conditions were met: payment of only one tax, the removal of Butrus Karameh from the *Dīwān*, the appointment of two representatives from each of the religious communities, relief from the corvée and coal mining, and retention of their firearms, 111, 114.

[11] Gihon, *Atlas Carta*, 91–3, map 165, 92, and Rustum, *Disturbances*, 53.

they may learn from their youth the art of war and be trained in it, and so be ready in case of need." The account then states that they considered this and said to the Pasha: "Your order be upon our heads, but there is no need for us to give up our boys and young men for war. When the enemy of our religion enters our country, all of us, young and old, will go out and fight and willingly shed our blood for our faith and our fatherland." But Ibrāhīm asked, "How do you expect to wage war if you know not the art thereof?" and they responded, "This art of war, known to our grandfathers, who withstood the enemy and defended their country until now, is also known to us, and as they once did, so we also hope to do in the future." Ibrāhīm then told them, "War is not the place for a herd of useless men: technique and skill are required. This order I want carried out without delay, beginning here in Jerusalem." Then, according to the chronicler, "All of the Moslems of these districts knew not what to do. Coming together, some of them decided to revolt, saying: 'It is far better to die with our arms than to give our children to everlasting slavery without the hope of ever seeing them again.'"[12]

Three days later, on 28 April, Ibrāhīm Pasha departed for Jaffa.[13]

William Thomson, an American missionary stationed in Jerusalem at this time, wrote on 19 May 1834 that he had "met many fellahheens [*sic*], armed and equipped for war." He "asked one of the Fellahs who came down to us, if he was shooting birds? With a bitter smile, he said, my birds are in Jaffa, and my lead is for the Pasha." Thomson explained that the disturbances were due to "an order from the pasha to take every fifth man to be a soldier, at which the mountaineers are greatly enraged," and said that they "swore by their prophet that they would never submit to be made '*nezzam* [*Nizām*],'" as the Egyptian troops were called. Thomson reported that their "greatest objections are ridiculous enough, but strikingly characterize the feelings of the people. The pasha shaves

[12] Spyridon, *Annals of Palestine*, 78–9. Altogether, this source has much to commend it, and although its outlook is naturally subjective, the manuscript seems to be based upon firsthand information and reports. Neophytus seems to have known the Arabic-Turkish language used in Jerusalem, and because his account has a sense of immediacy it provides important information unavailable in other works.

[13] *Ibid.*, 114. Spyridon, Rustum and Thomson (in the *Missionary Herald*) do not always agree chronologically: dates used here must be taken with some caution. Thomson's dates come firsthand; they are therefore more certain.

off their long beards and puts on the Nezzam dress, very much like the Frank; which two things are an abomination in the eyes of the people. One poor woman complained bitterly that the pasha 'made them all become young again.'"[14]

An outbreak in Ṣalt, Transjordanian center of influence for the Ṭūqān family, was the first reported incident of peasants and bedouin joining forces against the *Nizām*. Shortly afterwards the Taʿamara Bedouin, a tribe living in and around Bethlehem, and which had been deeply involved in the Rebellions of 1825–1826 and 1829, joined the villagers of Saīr in the *sanjaq* of Hebron and defeated the troops led by the Khedival governor of that district. This group continued to oppose Ibrāhīm Pasha until the withdrawal of his army in 1840.[15]

What happened next was unprecedented. Unfortunately, we have no documentary evidence of the planning that went into the first large-scale rebellion against the Khedival regime. However, it clear that this rebellion was not spontaneous, but was coordinated by the leading notables of the cities of Jerusalem, Nablus, and Hebron.

On 8 May 1834 it was reported that peasants surrounded the city of Jerusalem, barring all of the city gates. Ten thousand men from Nablus, Hebron, Jerusalem, and Gaza began to attack the walls of Jerusalem, but were repulsed by soldiers. Then, five days later, there was an earthquake, which the Muslims of Jerusalem believed "to have been caused by Ibrāhīm Pasha's attempt to take soldiers from that sacred city—a thing never attempted before."[16] For a period of five days, the fighting ceased. Then, on 19 May, the people of Silwan pointed out "an abandoned sewer" (undoubtedly Hezekiah's Tunnel) to the leaders of the rebellion running from near the Dung Gate into a mill in the Jewish quarter of the city. People gathered near the Dung Gate (*Bāb al-Maghāriba*) and on Sunday, 20 May thirty-six peasants and residents of Jerusalem crawled through the sewer

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[14] *The Missionary Herald*, vol. 31:2 (1835): 44. This kind of comment has led to much misunderstanding of the reasons for the revolt. '*Nizām*' was an Ottoman term for regular soldiers.

[15] Rustum, *Disturbances*, 56. Apparently Ibrāhīm Pasha never caught up with Shaykh Muḥammad of the Taʿamara. Robinson reported that this outlaw, with a price on his head, "was known to be often in Jerusalem, and was on good terms with the convent in Bethlehem. . . . he was of course on good terms with all the other outlaws and Arabs. . . . He was a noble-looking man . . . [and h]e fulfilled his contract [as guide] honourably," Robinson, 154, 319.

[16] *The Missionary Herald*, vol. 31:3 (1835): 87. Rustum, *Uṣūl*, II:141, no. 48, dated 16 *Muḥarram* 1250/28 May 1834.

into the city. They then went to the Dung Gate and threw it open, letting in the rest of the peasants.[17] The Commander of the Garrison (the *Bimbashi/Bin-başi*) Rashīd Bey withdrew his troops into the inner fortress (*qalʿa*), where they took up defensive positions.

Some of the Muslims in Jerusalem, who had claimed to Ibrāhīm Pasha that they had turned in their guns, appeared fully armed and joined the rebels in looting the houses of the officers in charge of defending the gates and walls of the city; the looters rushed back to their homes with whatever they could carry. Five hundred soldiers left the citadel and attacked the looters. They then began to loot the city themselves in reprisal for the destruction of their property, until their commander put a stop to it. Carnage followed. The casualties reported on that day included fifty peasants, sixteen townspeople, and five soldiers. The following day the peasants renewed their attacks. After a brief counterattack, Rashīd Bey once again withdrew into the citadel. Jerusalemites opened Damascus Gate, allowing two thousand rebels from Nablus into the city. They surrounded the citadel and began firing.

> Then young and old fell to looting, beginning with the house of the *Mirilais* [*mir-alay*—officers in charge of the fortifications of the city], whence they removed the heavy articles which had been left behind, such as pillows, blankets and wooden tables. Then they looted the Jewish houses in the same way. The following night, the fellaheen, with some low-class bandits of Jerusalem began to loot the shops of the Jews, the Christians, the Franks, and then the Moslems. The grocers, the shoemakers and every other dealer suffered alike. Within two or three days there was not one shop intact in the market, for they smashed the locks and the doors and seized everything of value.

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[17] Spyridon, *Annals of Palestine*, 76–80. I did not locate the legal document mentioned here. On 14 December 1986 at the home of Shaykh Asʿad al-Imām al-Ḥusaynī, I interviewed ʿAbdullāh Budayrī, a descendant of Shaykh ʿAbdullāh Budayrī, who was one of the leaders of the rebellion, and who was exiled by Muḥammad ʿAlī (see Rustum, *Disturbances*, 70). He also mentioned that another ancestor, Shaykh ʿUrabi Budayrī, was killed by Khedival soldiers at the entrance of *Bāb al-Nāẓir*. He believed that the fountain known as 'Sabīl al-Budayrī' was dedicated to him on that spot, but actually it dates from the Mamluk period, when it was constructed in honor of the scholar Shaykh Budayrī, the founder of the family. Isḥaq Mūsā al-Ḥusaynī, *Al-abniya al-athariya f'il-quds al-Islāmiya* (Jerusalem: Awqaf Administration of Jerusalem, 1977), 21; an English translation has been published by The British School of Archeology in Jerusalem. This useful source, with its large format map and its indexes, contains information not found in other works.

> Many of the Jerusalem Moslems had had time to remove from their shops everything of value, and left behind only useless things. Now they declared that the soldiers had taken the valuable things, and they showed themselves to have a good cause of hatred against the army. The market was a miserable and pitiable sight. It looked as if it had been deserted for five years. Scattered here and there, were victuals, gewgaws, old cushions and mattresses, which they had torn open in the hope of finding money in them. In many places they dug up the shops suspecting that the owners might have hidden the 'whites' [silver money] or anything else. The citizens protested again this, but nobody listened to them, because they were few in number, compared to the fellaheen. Everybody came to take and none returned empty-handed. During the following days they began to strip and loot the houses of the Orthodox, the Franks, and the Armenians, but the leaders of the fellaheen and the sheikhs prevented them from by telling them that if they harmed the *Rayahs* [*raʿāyā*—in this context referring to Christians and Jews], they would incur the displeasure of the Royal powers. In spite of this, they continued to loot the uninhabited houses every night.[18]

This chaotic event became known as 'the time of the entrance of the peasants into Jerusalem' or 'the time the peasants entered Jerusalem.'[19]

On 21 May the Commander of the Citadel Rashīd Bey had the *'ulamā'* of the city arrested including the *Muftī*, Ṭāhir Afandī al-Ḥusaynī; the *Qā'immaqām Naqīb al-Ashrāf*, ʿUmar Afandī al-Ḥusaynī; the *Bashkātib*, Muḥammad ʿAlī al-Khālidī; and other prominent Jerusalemites. However, when the two thousand men from Nablus joined the rebels, the commander of the citadel withdrew from the walls into the citadel and the city was taken. The looting of residential and commercial districts in the city continued. Some twenty thousand "peasants" reportedly overran the city. On 23 May government warehouses for storing provisions and the government granary were looted.[20]

The next day Ibrāhīm Pasha left Jaffa for Jerusalem with nine thousand soldiers. Rebel scouts reported his movements along the route and on 25 May the rebels withdrew from Jerusalem. A new campaign began along the road with ambushes on Ibrāhīm Pasha's

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[18] Spyridon, *Annals of Palestine*. This is the only hint that the Porte may have offered tacit support to the rebel leaders that I discovered in all the evidence researched.

[19] *LCRJ* 319, 25 and 48.

[20] Spyridon, *Annals of Palestine*, 79–85.

forces. It took two days and two nights for the Pasha's retinue to cover a five-hour distance. During this time, Ibrāhīm Pasha's troops suffered fifteen hundred casualties, five hundred of whom died before they could make it back to Jerusalem.[21]

Thomson reported on 24 May that "[r]eports from the seat of war become more alarming. The whole of the mountains, from Nabloos to Hebron, are in commotion. The governor of Jerusalem has fled; and his father [Qāsim al-Aḥmad] who was governor last year, and displaced, is at the head of the rebels. It is confidently asserted that the city had been taken and plundered."[22]

On 27 May Ibrāhīm Pasha returned to Jerusalem but refused to enter the city, encamping at his headquarters on Mount Zion. The next day he offered pardons to those who had participated in the rebellion, but none surrendered. The Pasha then set out in pursuit with three thousand men, killing three hundred rebels and capturing five hundred. Seventeen rebel leaders were imprisoned, and the rest freed.[23]

On 30 May Ibrāhīm Pasha returned to Jerusalem with seventy-five hundred captives, as well as livestock and armaments. The following day the village of Bayt Jāla was attacked by soldiers and thirty-three Christian men and women were killed on suspicion of looting. The Pasha stopped the massacre, but confiscated the livestock belonging to the village. On 1 June the Taʿamara, reportedly armed with one thousand guns, began to defend themselves and Christians in Bethlehem against looting Khedival troops, but refused to attack Ibrāhīm Pasha.[24]

In the ongoing campaign of insurgency against the Pasha, on 4 June he and his force of four thousand men were attacked near the Pools of Solomon. Elsewhere on the battlefield fifteen hundred men commanded by Rashīd Bey, the Commander of the Citadel of Jerusalem and one of Ibrāhīm Pasha's lieutenants, were attacked. Rashīd Bey himself was killed and eight hundred of his soldiers were killed or captured. The prisoners were taken to Hebron. Victorious peasants then besieged Ibrāhīm Pasha in Jerusalem where he had fled for refuge to Mount Zion.

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[21] Gihon has Ibrāhīm Pasha's troops at five thousand; *Atlas Carta*, 92. There was no medical care for the wounded.

[22] *The Missionary Herald* 31:2 (1835): 46.

[23] Gihon, *Atlas Carta*, 93, map 166; Spyridon, *Annals of Palestine*, 85.

[24] Spyridon, *Annals of Palestine*, 88–92.

From 4 to 8 June, firewood and flour for baking bread were in short supply in Jerusalem; meanwhile the rebellion spread to Nablus, Ramla, Lydda, Jaffa, and Acre. Rebels captured Tiberias and Ṣafad. Bedouins attacked Karak, killing the two hundred soldiers garrisoned there.

On 30 June Muḥammad ʿAlī arrived in Jaffa. Thomson reported the spectacle:

> Early this morning the Marina, or "Street that is called straight," was lined all the way from the landing to the apartments fitted up for the Vice Roy, with the finest troops in the army; a large band of music being placed in the centre. At one o'clock two beautiful corvettes arrived, and commenced firing a salute at about a half an hour's distance from the anchorage, which was instantly returned by the whole fleet and batteries. At four o'clock the yards were manned, and with the roar of cannon from the fleet and forts his highness disembarked. It was a magnificent sight. I had an excellent opportunity to observe the movements and deportment of his highness, both when he was rowed down to the landing, and as he returned on his splendid horse. Without professing to know how a king ought to behave, I saw nothing but what appeared to me to be natural, dignified, and in perfect keeping with the character of a great man. At an equal distance from carelessness and that affected hauteur of the Turk, he saluted every one, bowing gracefully to the crowd on either side, as he passed along. This conduct greatly surprised the people. . . .
>
> Mohammed is a fine looking old man. His dress is Turkish, not nezzam; neat, without anything to distinguish it from that of other Turkish gentlemen. His beard is white, his countenance ruddy and fair to look upon, his eye lively and expressive; although close upon the confines of that space allotted to the life of man, he has a surprising vigor and activity in all his movements. There are not many parallel cases on record; and perhaps no man living, who, all things considered, has accomplished so much, and been so uniformly successful, as Mohammed Ali.[25]

Two days later he met his son at Ramla, and then they returned together to Jaffa. In Ramla, Muḥammad ʿAlī asked Ibrāhīm Pasha about "the elders of Jerusalem, standing by in great fear." Ibrāhīm replied: "They are the rulers and notables of Jerusalem." Then, showing his well-known contempt for the *ʿulamāʾ*, "the old man frowned, looked at them from tip to toe for a while, and then, shaking his head, he sighed, but said nothing."[26]

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[25] *The Missionary Herald* 31:3 (1835): 90–1.
[26] Spyridon, *Annals of Palestine*, 98.

Soon after Qāsim al-Aḥmad turned against Ibrāhīm Pasha, Muḥammad ʿAlī ordered that he and his sons, Yūsuf and Muḥammad, and his allies ʿAbdullāh Jarrār, ʿIsā al-Barqawī, and Naṣr al-Manṣūr were fugitives and were to be captured.[27] The Khedive also ordered his ally Amīr Bashir al-Shihāb of the Lebanon to join forces with Ibrāhīm Pasha in the Province of Sidon. Sulaymān ʿAbd al-Hādī and Ibrāhīm Abū Ghūsh petitioned for the release of Jabr Abū Ghūsh, who meanwhile had been convinced in prison to join forces with Ibrāhīm Pasha. Muḥammad ʿAlī ordered his release and in a short time Jabr was appointed *mutasallim* of Jerusalem.

Concerned about the impending arrival of Muḥammad ʿAlī Pasha with an army of fifteen thousand new troops, the notables of Jerusalem tried to arrange a truce between the Pasha and the rebels through the *muftī*, Ṭāhir Afandī al-Ḥusaynī. ʿIsā Amār, the leader of the rebels from the district of Hebron, set the following conditions for a truce: (1) a general amnesty and pardon for the rebels; (2) the discontinuation of conscription in exchange for a payment of one thousand *qurūsh* per man; and (3) the abolition of illegal taxes. Ibrāhīm Pasha rejected these demands, but continued talking with the *muftī* through Ḥusayn ʿAbd al-Ḥādī.

Ibrāhīm Pasha then received a letter from Qāsim al-Aḥmad, now the recognized leader of the rebels in *Jabal Nabulus*, asking for a pardon so that he could negotiate a truce. Ibrāhīm Pasha, with help from the *muftī* and Ḥusayn ʿAbd al-Hādī wrote a letter guaranteeing safe conduct for Qāsim. With the *muftī* and Ḥusayn ʿAbd al-Hādī acting as sureties, Qāsim met the Pasha. Ibrāhīm rebuked Qāsim for his betrayal. Qāsim claimed that he had been forced to participate and apologized. The Pasha accepted his word, dressed him in a cloak of honor, and reappointed him *mutasallim* of Nablus and Jerusalem, as well as spokesman for the rebels.[28]

Shortly after this, ʿUmar Afandī, a former *Qā'immaqām Naqīb al-Ashrāf* of Jerusalem; Ṭāhir Afandī, the *muftī* of Jerusalem; Muḥammad ʿAlī al-Khālidī, the *Bāshkātib*; Shaykh ʿAbdullāh Budayrī, a scholar; Muḥammad Abū Saʿūd, a former *Qā'immaqām Naqīb al-Ashrāf* of Jerusalem; and Muḥammad ʿAlī al-Ḥusaynī, the current *Qā'immaqām*

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[27] Rustum, *Uṣūl*, II:115–8, no. 134, dated 25 *Ṣafar*—12 *Rabīʿ I* 1250/3–20 July 1834.

[28] Spyridon, *Annals of Palestine*, 92, 98. See also Rustum, *Uṣūl*, II:115–8, no. 134. The truce (*āmān*) was dated 11 *Rabīʿ II* 1250/18 July 1834.

Naqīb al-Ashrāf of Jerusalem, were all exiled and imprisoned in Egypt on the orders of Muḥammad ʿAlī. Other notables throughout the area, including Shaykh ʿAbdullāh al-Fāhūm of Nazareth and former employees of ʿAbdullāh Pasha were exiled or executed, among them ʿAbdullāh Pasha's former chief advisor Masʿūd al-Māḍī, and his son, ʿIsā al-Māḍī, the *mutasallim* of Ṣafad, who were beheaded.[29]

On 23 June Qāsim al-Aḥmad repudiated his truce with Ibrāhīm Pasha, and called the men of Nablus to arms. According to Neophytus, Qāsim al-Aḥmad wrote to the notables of Jerusalem:

> Be it known to you all that the peace made between the deceitful Ibrahim Pasha and you and me was not a true one, but a trick by which he might escape the immediate danger, for he was then at our mercy. But now, when reinforcements have come to him, he disregards the peace and the oaths, and behold, he has already set out to destroy us. Take you, therefore, your arms and use them courageously against the tyrant. Fight bravely for your homes and your honour, for your rights and especially for your beloved children of whom he is thinking to deprive you for military service. Strike now not against the unbeliever, but against your fellow-Muslims.[30]

The rebel strategy was to divide their forces to defend themselves on three fronts. Thirty thousand men formed into three divisions, one commanded by Shaykh Yūsuf al-Qāsim stationed at Ras al-ʿAyn, the second north to guard the approaches to the Galilee, and the third remained in Nablus.

On 24 June bedouins, not allied with Qāsim, attacked Ibrāhīm Pasha's camp. For the next four days a battle raged just outside Nablus. On 28 June Ibrāhīm Pasha took Ras al-ʿAyn and the rebels there surrendered. According to Spyridon's reports, peasants who were taken captive were sent to Egypt "to learn the art of war in a royal mode and not after the fellah fashion." As for old men captured

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[29] Gihon, *Atlas Carta*, 91; Spyridon, *Annals of Palestine*, 94; Rustum, *Disturbances*, 69–71; *Uṣūl*, II:121–2; and *F.O.* 78/243, 11 August 1834, Farren to Palmerston. Ḥusayn ʿAbd al-Hādī signed the orders; it is unclear whether this was his own decision or ordered by his superiors. It is possible that this initiative allowed him to settle up some old scores. See also ʿAdel Mannāʿ, "Continuity and Change in the Socio-political Elite in Palestine During the late Ottoman Period," in *The Syrian Land in the 18th and 19th Century*: *The Common and the Specific in the Historical Experience*, ed. Thomas Philipp (Stuttgart: Franz Steiner Verlag, 1992), 69–89, 73.

[30] Spyridon, *Annals of Palestine*, 94. Donna Robinson Divine in *Politics and Society* cites Thomson and Rustum in her assertion that the truce fell apart over the refusal of peasants to deliver grain to Ibrāhīm Pasha's starving army, 60 and 75 n. 41.

in the fighting, their right hands were cut off with the words: "Let them now learn how to fight their lords." Therefore, when the leaders surrendered, "as is the custom of the Arabs, most of them sent their [*shaykh*s] and their notables to the Pasha, all wearing handkerchiefs around their necks denoting guilt and servile submission."[31] Nablus was occupied by Ibrāhīm's forces.

Meanwhile, Shaykh Qāsim al-Aḥmad and his sons Yūsuf and Maḥmūd fled across the Jordan river to the town of Karak. On 1 July Ibrāhīm Pasha set out after them with fifteen hundred men after first destroying Karak. Between 1–31 August Ibrāhīm pursued Qāsim al-Aḥmad and captured him in Transjordan. The leader of the rebellion was then taken to Damascus where he was beheaded, along with his fellow rebel "Arsab al-Kahol" [*sic*].[32] Two of his sons were beheaded in Acre, and many of his followers were hunted down and killed.[33] When the Ottomans ultimately regained control, public sentiment in favor of Qāsim al-Aḥmad was so strong that the *shaykh*s of Nablus presented a "Memorial" to the Ottoman military commander Izzet Pasha petitioning that "the appointment of Suleiman Abdul Hadi [as the *mutasallim* of their town] may be revoked in favor of Sheik Mahmoud-el-Kassim ibn [the son of] Kasim el Ahmed."[34]

Between 1–30 July Jabr Abū Ghūsh, the new *mutasallim* of Jerusalem, undertook the disarming of the local population. Those found with muskets or knives were executed. In addition, Muḥammad ʿAlī ordered the beheading of the *mutasallim*s of Lydda and Ramla, and the *shaykh*s of the villages near Jaffa which had joined in the rebellion. Acre was retaken at a loss of two thousand villagers' lives. With the rebellion crushed, and the local leadership destroyed, Muḥammad ʿAlī was confident enough to leave for Cairo on 6 July. Ibrāhīm Pasha returned to Jerusalem with thirty thousand conscripts on 20 July.[35]

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[31] Spyridon, *Annals of Palestine*, 115.

[32] *F.O.* 78/243 20 September 1834, Farren to Palmerston.

[33] Gihon, *Atlas Carta*, 91, Spyridon, *Annals of Palestine*, 95–6, 101–7. Rustum, *Uṣūl*, II:165–6, no. 165 provides information concerning the financial legacy of the brothers Yūsuf and Muḥammad—this amounted to a total value of 8,300 *qurūsh* which was to be liquidated and the cash to be sent to the *dīwān al-khazina* and the "*Dīwān al-Nās*" in Nablus. Aḥmad and Qāsim al-Aḥmad's legacies remained undiscovered. 13 *Dhū-l-Qa'da* 1250/12 April 1835.

[34] Cunningham, *Correspondence of Richard Wood*, 198.

[35] Spyridon, *Annals of Palestine*, 96–101. Thirty thousand is an exaggerated number, but again, carries the sense of a large force.

Then, to stamp out the last pockets of insurrection, on 24 July Hebron was besieged and its inhabitants massacred, except people who sought sanctuary at the *Ḥaram* in Hebron. Muslim and Jewish girls were reported raped and killed. Six hundred and thirty young men were captured and sent to Egypt to serve in the army. To impress his total victory upon the inhabitants of Jerusalem, Ibrāhīm personally oversaw a thorough search of the city for arms which was undertaken on 29 and 30 July. On 18 September, he exiled the eminent *Bāshkātib*, Muḥammad ʿAlī al-Khālidī, to Acre and simply had the lesser rebel leaders beheaded at the gates of the city.

The remarkable coalescence of the *umarāʾ* of Nablus with the *ʿulamāʾ* of Jerusalem and the *shaykh*s of the various bedouin tribes resulted from the specific financial and military policies of the Khedival government. This rebellion arose not out of political rivalry, but out of the draconian changes introduced in the area by Muḥammad ʿAlī's government. These policies, intended to secure and modernize the area, had overturned the local political and fiscal order that had been firmly rooted in Ottoman conceptions of administration and justice under the rule of law, replacing them with universal and radical changes. The concrete manifestations of these policies were new forms of taxation, conscription, and the encouragement of corporal punishment of the *ʿulamāʾ*, who had contravened laws issued by the Khedival government. This overturning of the norms of justice under the law moved the Muslims of Jerusalem to rebellion.

The traditions of *ʿulamāʾ* political activism in the Ottoman Empire were well established by this time. As early as the seventeenth century in Anatolia such challenges had "spurred the ulema to collective action" in order to protect their careers, rank, and privileges; to "ensur[e] their continued inclusion in the privileged order" immune from "corporal punishment of any sort"; and to make certain of their "survival as tax exempt elites."[36] The alliance of the *ʿulamāʾ* and the *umarāʾ* against Muḥammad ʿAlī in 1834 fits in with the general pattern of resistance to his policies that had emerged in *Bilād al-Shām* and Egypt.[37]

The fate of the *mamluk* class in Egypt as tax-farmers is analogous to that of the *umarāʾ* of the Nablus region under Muḥammad ʿAlī—

[36] Zilfi, *Politics of Piety*, 104–7.

[37] On conditions in Egypt, see the useful overview provided by Lawson, *Social Origins*, bearing in mind our differences in interpreting the period.

changes in land tenure were a part of the pattern of the general reorganization and commercialization of agriculture in the Arab provinces of the Ottoman Empire that took place in the late eighteenth and early nineteenth centuries as the Levant became increasingly involved in Mediterranean trade. Unlike Cairo, Jerusalem had no large artisan class that joined in the alliance of military commanders and *ʿulamāʾ*. In Egypt, when Muḥammad ʿAlī confiscated *waqf* lands, the beneficiaries of those endowments protested to the *ʿulamāʾ* of al-Azhar. The *ʿulamāʾ* then urged Muḥammad ʿAlī to reconsider since these institutions and endowments would be ruined if confiscated. Their arguments were fruitless, "and Ibrahim Pasha even insisted that since the revenues of these estates were being employed to wage war in the Hijaz against the Wahhabis, the enemies of Islam, their use by the state took precedence over their employment for other religious purposes." Ibrāhīm had "also pointed out that the vast revenues which had been assigned to religious institutions had, in fact, been diverted into the pockets" of their administrators, and "that most of the religious institutions had fallen into a state of decay, and that these abuses could no longer be countenanced." He stated that those "institutions which still remained in good condition, the state had assigned revenues sufficient to cover maintenance costs and to pay the salaries" of their staffs. This policy left tax-farmers and those who had profited from the revenues of *waqf* lands little choice but to leave Upper Egypt or remain simply as cultivators. Ibrāhīm's methods had been extremely ruthless, even brutal, but he achieved the goal coveted by Muḥammad ʿAlī—complete control over the revenues of Upper Egypt.[38]

In Egypt, Muḥammad ʿAlī had imposed his decisions on the *ʿulamāʾ*, who protested verbally but dared not revolt against the slayer of the Mamluks. In Jerusalem, with the critical issue being control over the imperial *awqāf*, the situation was different. In this context, it is possible to suggest that Muḥammad ʿAlī had calculated his policies to instigate rebellion in order to have a pretext to end the autonomy of the *afandiyāt* and the *umarāʾ* in the strategically important but unruly *sanjaq*s of Nablus and Jerusalem.

The notables of Jerusalem and Nablus had good cause to regret their initial support for Muḥammad ʿAlī against ʿAbdullāh Pasha.

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[38] Rivlin, *Agricultural Policy*, 53.

In Jerusalem the Khedival government at the last moment sought to mitigate its policies and had tried to appease the enormous discontent that its policies had engendered among the *ahālī*—the privileged Muslims who under the Ottoman regime had been favored by important tax exemptions, salaries, and prerogatives—by exempting them from the *ʿāna* tax. However, by calling for the conscription of Muslims into the Egyptian army, it was too late to prevent the *ʿulamāʾ* from joining the *umarāʾ* rebels. Realizing their mistake in welcoming Khedival rule as an alternative to ʿAbdullāh Pasha, the *ʿulamāʾ* threw their support toward the rebels.

The *umarāʾ* apparently did not anticipate the overwhelming resources and superiority of the Khedival army, nor the resolve of Muḥammad ʿAlī to incorporate Syria into his empire. We do not know what Qāsim al-Aḥmad himself sought to gain by leading the rebellion. He was evidently a leader of stature, a man Muḥammad ʿAlī had recognized as the leader of the rebellion, pardoned, and despite his actions, reappointed to the post of *mutasallim*. Qāsim al-Aḥmad was also courageous, because when Muḥammad ʿAlī failed to live up to their agreements, he swiftly moved to oppose him once again. We have no evidence that the Ottomans had made any promises to him, or that they had provided him with any support, but it is likely that there was some kind of contact. Without Ottoman military and political backing for the rebellion, what would the results have been if the rebellion had succeeded in ousting Ibrāhīm Pasha? Could Qāsim al-Aḥmad have hoped to become the next Ottoman governor-general of Sidon? Lacking evidence, we will never know. With the rebellion crushed and its leadership liquidated, Ibrāhīm Pasha was poised to implement the policies that would bring Syria under the complete control of Muḥammad ʿAlī.

In a letter dated 17 November 1834 the American missionaries Dodge and Whiting wrote, "One thing with which we have been most struck is the depressed and wretched state of the whole country around, in consequence of the very rigorous policy adopted by the government since the late rebellion." They stressed that the "people were disarmed, except such as fled from their houses, taking their arms with them. The number of muskets demanded of them was so great, that many were obliged to purchase them for the occasion," adding, "This measure has caused much distress in some parts of the country." In addition, "to punish the leaders in the rebellion . . . some were imprisoned and bastinadoed, and others beheaded," and

to "punish those who had fled or were concealed, their property was destroyed, that is, their olive and fig trees were cut down, and their houses demolished." They observed that

> what the poor people seem to feel most of all, and the dread of which was the cause of their rebellion, is, that large numbers of them are demanded and dragged off to be recruited into the pasha's army. From various towns and villages in the mountains of Judea, Nablous, and Hebron, several thousands of men and boys, we understand, have been gathered and forced into the service, either to be trained as soldiers, or employed on the public works.

They completed the report noting, "The distress and discontent necessarily caused by these measures is very great, and the effect on business of all kinds, especially agriculture, is most disastrous."[39]

The rebellion against Muḥammad ʿAlī's Khedival policies that took place in Jerusalem from April to October, 1834, was not a reaction to Ibrāhīm Pasha's westernized army, nor was it due to 'Islamic conservatism.' What must be emphasized here is that the rebellion was not against *reform* per se. As I have shown in this study, the Ottoman Sultan himself had initiated reforms that extended throughout the Arab provinces, and there is no evidence that the 1826 reforms of the military organization of the *sanjaq*s of Nablus and Jerusalem had led to rebellion on the part of the *ʿulamāʾ*. It must also be remembered that Sultan Maḥmūd II was in the process of reorganizing the administration of *awqāf* and the judiciary system, and there is no evidence that the *afandiyāt* of Jerusalem opposed those reforms.[40] The initial welcome that some of the *umarāʾ* had given Ibrāhīm Pasha had been a function of their political rivalry with the Ottoman Governor-General of Sidon, ʿAbdullāh Pasha. It was only after his overthrow and the organization of the Khedival regime in Jerusalem, Nablus, and Hebron that the *afandiyāt* and the

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[39] *The Missionary Herald* 31:10 (1835): 274.

[40] Indeed, this may have been the reason for Ṭāhir and ʿUmar al-Ḥusaynī's original support of Muḥammad ʿAlī against the Sultan, although their motivations for signing the *fatwā* against the Sultan can only be surmised. Ultimately, Ṭāhir's exile in Cairo lasted two years. He then returned to Jerusalem to head the *Majlis al-Shūrā* as the *nāzir*. When Ottoman control was restored, he was banished to Istanbul and forbidden to ever return to Jerusalem. He lived in the Ottoman capital for twenty-five more years and died there in 1865/1866. See Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 17.

umarā' recognized the dangers posed to their position, privileges, and traditions and chose the course of rebellion. Their actions aimed at protecting the established privileges and prerogatives they had enjoyed under Ottoman law. The rebellion was in response to specific Khedival policies which sought to wrest the right to receive and distribute both *mīrī* and *awqāf* revenues away from the Sultan and his provincial administration; to impose and collect illegal taxes from both the *raʿāyā* and the *ahālī* of *Bilād al-Shām*; and to conscript them for indeterminate, harsh military service in distant lands. While these measures may have been intended to bring about reform, they were viewed by the taxpaying population and the Muslim ruling classes simply as unjust.

Already chafing at the excesses of the Khedival regime, the *afandiyāt* of Jerusalem and the *umarā'* of the Nablus region led a general rebellion to prevent the implementation of Khedival conscription policies. Taken together, the policies put in place by the Khedival regime in *Bilād al-Shām* aimed at radically eliminating the *de jure* rights and privileges enjoyed under Ottoman administrative law by all classes of local society—taxpaying villagers, bedouin, *tīmār* holders, and the *ʿulamā'*. The spread of the insurgency throughout *Bilād al-Shām* during the summer of 1834 demonstrates that these were popular rebellions against what was widely perceived as the imposition of unjust rule.

The Muslim community, with its diverse social classes, adhered to a clear sense of justice under Ottoman law. That law, a combination of sacred law, administrative codes, and local customs and usages, defined the rights and responsibilities of the governed in relation to the authorities. When those rights and responsibilities were abused, by overtaxation, unauthorized conscription, arbitrary decrees, and other types of illegal orders, the Muslims of Jerusalem and the surrounding districts rebelled. The role of the *muftī* of Jerusalem as mediator and leader during the rebellion illustrates the weakness of the Porte-appointed *qāḍī* during this period. In a brief moment of political unity, local leaders joined together in an attempt to overthrow the Khedival regime and to restore Ottoman rule in the region. Such an outcome offered the hope for a return to the legal standards upheld by the *Sharīʿa* and the administrative law, and with it, a redefinition of the status of the various segments of provincial society and their relationships to the political center. The failure of the rebellion, the execution and exile of its leaders, followed by forced

conscription into the Egyptian army, or the flight of the male population, enabled Ibrāhīm Pasha to ultimately secure the area for Muḥammad ʿAlī.

The pernicious nature of Muḥammad ʿAlī's rule was as evident to the Muslims of Jerusalem as it was to their counterparts in Egypt. While previously there may have been officials who would indulge in excesses and arbitrary taxation, these individuals never aimed at overturning the entire edifice of the Ottoman state. They never presumed upon the role of the Sultan as Caliph, nor sought to create a governmental system to replace Ottoman institutions. The innovations of the Khedival government shook Ottoman society in Syria to its foundations.

Despite harassment from bedouin and other rebels in the unsettled regions of *Bilād al-Shām*, the Khedival government now faced no opposition in Jerusalem and Nablus. Having destroyed all local military and political opposition to his rule, Muhammad Ali could move forward in establishing his regime.

CHAPTER SIX

A STUDY IN THE APPLICATION OF LAW IN JERUSALEM UNDER KHEDIVAL RULE

Khedival policies forever altered the socioeconomic institutions of Jerusalem and the surrounding countryside, and reoriented the position of the Holy City in the arena of international politics. Those policies are reflected in the documents recorded in the registers of the city's Islamic Court. In this section, we are grappling with the issue of the application of Islamic law, Ottoman administrative law, and Khedival decrees during a limited period of time. Despite the brevity of this period, developments emerge from the Islamic Court documents that reveal the social, economic, and political issues critical to the later history of Jerusalem and Palestine. One of the most striking of these is the attempt by the local urban elite to retain the particular culture of Jerusalem despite the failure of the 1834 Rebellion and the Khedival attempts to integrate the area into the Egyptian commercial and economic sphere through political action.

Among the distinctive features of Khedival rule in Syria was the enactment of a corpus of legal decrees and the institutionalization of local consultative councils to administer the policies of the Khedival regime in Syria. A survey of court cases dealing with the socioeconomic life of the region shows the genesis and impact of Khedival policies in Jerusalem and throughout Syria, and the way in which the judicial establishment operated between the Truce of Kütahya (1833) and the Ottoman restoration (1840). These cases also illuminate many of the social, political, and economic issues that arose in Jerusalem during the remainder of the Khedival period.

Following the suppression of the Rebellion of 1834, the demographic picture of the region changed. Ibrāhīm Pasha destroyed many villages, making it impossible for those who had fled during the insurrection to return. This in turn allowed the Khedival regime to assert its control over land and resources, including imperial *awqāf*. The political posture of Muḥammad ʿAlī invited the establishment of Western consulates in the city and the immigration of new people into the area. These changes affected the commercial sector, as well

as urban and rural land tenure. Following the rebellion those *ʿulamāʾ* who survived had to adapt to a different political structure. The Ḥanafī *Muftī* of Jerusalem, Muḥammad Ṭāhir al-Ḥusaynī, found influence again not as a member of the *ʿulamāʾ* but as a member of the *Majlis al-Shūrā*, reporting to the *Ḥikimdār* Muḥammad Sharīf Pasha. Muḥammad Sharīf Pasha's presence overshadows that of the Istanbul-appointed chief judge throughout this period, but, as these cases show, that office continued to represent Ottoman interests in the region throughout its occupation. A survey of specific decrees and cases drawn from the *sijillāt* reveals the details of Khedival administration.

Demography

The greatest single impact that the Khedival government had in *Bilād al-Shām*, including Jerusalem, was demographic. Conscription, war, disarmament, and the economic policies of Muḥammad ʿAlī caused enormous disruptions throughout the region. Indeed, one European estimated that the entire male population of the *sanjaq*s of Nablus, Jerusalem, Gaza, Jaffa, Lyd, Ramla, and Hebron had either fled, been sent to Egypt to the factories, or been conscripted into the army and navy, reducing the whole male population and productive power of the area by one-fifth.[1] Villagers fled their homes,

[1] *F.O.* 78/262 Damascus, 30 January 1835, Farren to Palmerston. Farren also provides a useful breakdown of the "former male population of 14+ years, exclusive of the town of Jerusalem itself which being chiefly inhabited by devoted monks, Jews, and Christians and subsisting chiefly on the pilgrims it was omitted in the census" reproduced here as Table 2.

Table 2. Farren's table, entitled "Former Male Populations of Southern Sanjaqs, Excluding the City of Jerusalem," referring to the period immediately preceding the rebellions of 1834.

Provinces	Villages	Males
Nablous	202	15,795
Jerusalem	121	7,319
Gaza	62	6,916
Jaffa	14	1,466
Lyd	11	1,041
Ramla	42	2,043
Hebron	14	1,855
Total	466	36,435

abandoning their fields and joining the bedouin as outlaws; and urban dwellers, without their executed or exiled leadership, became the prey of both the government and its fragmented opposition. Ibrāhīm Pasha destroyed abandoned villages and those of rebellious peasants, preventing the return of their original inhabitants.

The depopulation of southwestern *Bilād al-Shām* following the rebellion against Ibrāhīm Pasha in 1834 alarmed the Khedival government as well as European observers. Two documents relate to the decision of the Khedival government to enact a policy to encourage the repopulation of the area. Khedival reaction to the serious demographic situation is reflected in an order from the Superior Consultative Council of Damascus (*Dīwān al-Shūrā* [*sic*] *al-Shām al-Aʿlā*) in the name of Ibrāhīm Pasha.[2] The order, sent by the *Ḥikimdār*, Muḥammad Sharīf Pasha, to Jabr Abū Ghūsh, the *Mutasallim* of Jerusalem, was recorded in the court registers on 13 *Shawwāl* 1250/12 February 1835.[3] This important document represents Ibrāhīm Pasha's response to a real problem, which, according to the order, "went counter to Islam."

The order concerned "the surplus of unmarried women and lack of men to marry them, resulting in decreased reproduction and a deficit of youth . . . contrary to the wellsprings of civilization." The cause of this problem, said the order, was not war, conscription, overtaxation, or flight. Rather, Ibrāhīm Pasha asserted that this phenomenon was the result of local practice among the peasants (*fallāḥūn*)—the "undesirable ways of the peasants in some of the villages of the Province of Damascus" (alternately *Eyālet/Bilād Shāmīya* in the text) which were "contrary to justice and Islamic law, and the opposite of what is happening in the towns and cities." That is, the rates for the dower given to brides were set so high that their payment amounted to nothing less than "bribes, payoffs, 'gifts' of clothing, and other illegal extortions" for the benefit of the brides' guardians and the officials presiding over weddings.

See also Beshara Doumani, 'The Political Economy of Population Counts in Ottoman Palestine: Nablus, circa 1850,' *International Journal of Middle Eastern Studies* 26:1 (1994): 1–17.

[2] Mendelsohn-Rood, "I'ana."

[3] *LCRJ*, 319, 80–1. Note that in this volume, there are two consecutive pages so numbered; please refer to the second. My thanks to David Powers, Aharon Layish, and an anonymous reader for their comments on this chapter.

For these reasons, Ibrāhīm Pasha stated that he had decided to have the Superior Consultative Council issue an order "organizing a system [for the payment] of the dower to women and virgins." The order nullified "all of those damaging customs completely" and forbade high rates "in all of the villages of Syria for the sake of the young men who will not be deterred from marriage, and in order to achieve natural increase through marital relations." The order cites a *ḥadīth* attributed to the Prophet as precedent for this policy: "Marry, reproduce, and multiply, and I will boast of you among the nations on the Day of Resurrection."[4]

To reassure the peasants that they would not suffer losses as a result of this decision, Ibrāhīm Pasha abolished "the unjust and illegal customary costs associated with the dower" and enacted a new system. The order decreed three legal rates under "The Just Egyptian Laws" (*al-Aḥkām al-ʿAdila al-Miṣriya*) and "in accordance with Islamic law": one thousand *qurūsh*; seven hundred fifty *qurūsh*; and five hundred *qurūsh*.[5]

To insure compliance with his order, Ibrāhīm Pasha urged the leaders of the community to supervise the actions of grooms and their families and to hold them to these rates, and expressly forbade them to give "robes of honor" or other emoluments to the families of the bride. Those who ignored the law would face exemplary punishments, detailed in the second half of the decree, where it was stipulated that those persons permitted by sultanic decree to charge a fee for conducting a marriage could accept only ten, fifteen, or twenty-five *qurūsh* for such service. The order forbade absolutely the sale of daughters among the peasants, a practice forbidden by Islamic law but common nevertheless. It explains that these measures were

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[4] This *ḥadīth* is attributed to Al-Ghazali, *Ihy'a Oulum el-Dine* [*sic*] (Cairo: n.p., 1939) by Nawal el-Saadawi, *The Hidden Face of Eve: Women in the Arab World* (Boston: Beacon Press, 1981), 66.

[5] A *qurūsh asādī*, sometimes transliterated as *grūsh*, was a common silver coin valued at 120 *ʿuthmāniya* or *akçe*, and is sometimes called a *piastre*. I. Metin Kunt noted that in the sixteenth-century Ottoman Empire, the rate for fines for various crimes and transgressions changed, sometimes conforming to the 1:2:4 ratio used in the *cizye*, and sometimes closer to 1:2:3. The first article of the criminal code, published by Heyd in *Criminal Law*, specifies what is meant by these categories: "rich means possessing 1,000 *akçe* or more," middle level is having "property amounting to 600 *akçe*," while a poor man has property amounting to 400 *akçe*. There is a fourth category here, not employed for tax purposes, that might be called 'destitute,' consisting of those in worse circumstances: the "official poor." Kunt, *Servants*, 52.

undertaken not to diminish the value of the trousseau to be given to a bride, but to insure that young men could afford to marry. The decree was to be made known to all of the *mutasallim*s and other officials in the region, who were warned to heed the new regulations and to monitor those who conduct the wedding service: the *ʿulamāʾ*, marriage witnesses, and religious leaders (*riyāsat al-dīn*) from other religious communities.[6] The order instructed the *mutasallim*s to halt weddings and warn the offenders if they observed transgressions of this decree. If these officials persisted in disobedience and did not apologize, the *mutasallim*s and other officials were authorized to punish whomever was at fault, be he suitor, member of the *ʿulamāʾ*, or anyone else who had taken anything exceeding the established rates for performing a wedding. If any official discovered that out of fear, evasion, or pride, such an act had been concealed by either a judge (*ḥākim*) or a *mutasallim*, such negligence was punishable by exile to Acre for one year; if, however, the groom paid in excess of the three established rates for bride prices, or if he resorted to bribes, payoffs, or other illegal emoluments, he was to receive five hundred lashes of the bastinado (*kirbāj*), and the guardian of the bride who demanded more than the permitted amount was to receive one thousand lashes, after it was proven that he had acted contrary to this order.[7]

Since this decree envisioned improvement "for all," Ibrāhīm Pasha explained, it was to be applied in rural areas where in his view local customs were preventing population growth, namely, Nablus, the vicinity (*ḍawāḥī*) of Jaffa, Gaza, and the "Holy Land" (*al-Bilād al-Qudsīya*), a specific reference to the administrative district of Jerusalem. It also applied to the villages along the coast of the Province of Sidon and other areas where these customs "were not unknown: the country of Ṣafad, Tibnin, and the vicinity of Shaqīf and Jabāʿ"; it was also to be made known in Jabal Shūf, and the area of Kisrawān, as well as the country around Tripoli (Lebanon), the city of Ladaqiya, and as far away as the country of Aleppo, "wherever young men were hindered from getting married."

This order provides important evidence of the depopulation of geographical Syria as a result of the military policies of the Khedival regime and popular resistance to them, and the effort of the Khedival

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[6] "*Bāqī* [*sic* for *baqāʾ* or *baqiya*] *al-ṭawāyifi* [*sic* for *tawāʾif*] *wʾal-milāli*." Note the use of the plural of '*millet*.'

[7] Corporal punishment by the Khedival government was renowned for its harshness.

regime to encourage repopulation. Ibrāhīm Pasha's use of the *Sharīʿa* to legitimize a policy that he had enacted in the highest administrative council in Syria is striking. Everyone involved in the act of marriage, from the groom and his family to the officials who conducted the ceremonies, were held responsible for upholding a law aimed at benefiting the population of Syria. Although this decree was promulgated by the Consultative Council administered by the Khedival government, at the direction of the *Serʿasker*, Ibrāhīm Pasha, and the punishments specified in the order were to be carried out by the *mutasallim*s of the Khedival government, it was the *Sharīʿa*, and more importantly, the Prophet himself, to whom Ibrāhīm Pasha turned for legal sanction. The *ʿulamāʾ* clearly had no role in the making and implementation of this new policy, and they themselves were addressed in the decree as liable for punishment if they failed to abide by it.

This legislation aimed at ending rural customs "at variance with the *Sharīʿa*." At the direction of Ibrāhīm Pasha, the Consultative Assembly, overseen by the *Ḥikimdār*, Muḥammad Sharīf Pasha, had assumed the Sultan's prerogative to legislate administrative decrees. Although Ibrāhīm Pasha sought authority for the order in Islamic law, its enforcement did not rest with the *ʿulamāʾ*. Indeed, it was directed at them, warning them to abide by its stipulations or face corporal punishment and prison.[8] Although the religious leaders of the various communities continued to conduct marriages, annulments, and divorces, the Khedival government assumed the power to legislate and uphold laws governing personal status, an area of law heretofore the exclusive domain of the *ʿulamāʾ*.[9]

Ibrāhīm Pasha ordered the leaders of all of the religious communities in Syria to obey this decree. The Khedival government thus encouraged the natural increase of Christians and Jews as well as Muslims to solve the demographic problems it had caused throughout Syria as it implemented its military and political policies, although Ibrāhīm Pasha and his regime never explicitly acknowledged responsibility for this.

A second document recorded in the Jerusalem court archives shows the effect of the promulgation of this decree upon the payment of

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[8] Dire punishment of the religious elite was not unknown in the Ottoman Empire, but for Jerusalem's elite, such legislation represented a new threat to their position.

[9] Richmond, *Advance*, 62–3.

dowers, and the role of the court personnel as a liaison between the officials representing the Khedival regime and the Islamic law court. The matter at hand concerned the gift of dower directly to a bride, rather than to a legal guardian.[10] The individuals involved in this case were bedouin who had sought and obtained a *fatwā* from the *muftī* of Jerusalem (thereby demonstrating that bedouin (*ʿarab*) sought protection in Islamic law by using the services of the *muftī* and the *Maḥkama*) in support of a case they intended to bring before the *qāḍī*. The document, dated 28 *Muḥarram* 1252/15 May 1836, is addressed to Muḥammad Bey, the Supervisor of the Citadel (*Nāẓir al-Qalʿa*) by the Clerk, al-Ḥājj Rashīd al-Khālidī.[11] The clerk (*kātib*) informed the supervisor of the citadel of the facts of a dispute in which two sisters had had their dowers withheld from them by their legal guardians, their uncles ʿAbdullāh and Khālid al-Khatūm, who had been their legal proxies (*wakīl*) before they had reached the age of maturity and had married. The women, Fātima and Amina, had appointed their two brothers to serve as their proxies in this case to recover their dowers from their uncles. The women's brothers were probably minors at the time of their marriages and so their uncles were appointed Fātima and Amina's guardians. Their brothers, one named ʿAbd al-Karīm and another left unnamed, the sons of Muḥammad al-Khatūm, of the bedouin of Shaykh Afandī al-Taʿīmān [*sic*], had appeared in court to present a *fatwā* that ʿAbd al-Karīm had obtained from Muḥammad Ṭāhir Afandī al-Ḥusaynī. Stating that since their uncles had taken the dowers from the brides for their own benefit, and since the women wanted their dowers to be returned to them, the question posed to the *muftī* was, "Is this their due according to the *Sharīʿa*, or what is the situation? Benefit us through your answer." To this, the *muftī* replied, "Praise be to God, and prayers and peace upon His Prophet—if the situation is thus, since

[10] Tucker, *Women in Nineteenth-Century Egypt*, 45.

[11] *LCRJ* 321, 36. The grammar in this document is much corrupted. Note that the clerk is not the *bāshkātib*, a position filled at the time by Muḥammad ʿAlī al-Khālidī. The proper names are also unclear. *Amina* could also be read *Umna*. A note also about the process of obtaining a *fatwā* is in order. When an individual faced with a legal problem sought redress in the court, he would often go first to a *muftī* for an opinion that he could use as evidence in support of his position before the judge in the Islamic Court. The format of a *fatwā* is always in the form of a question and an answer. Those familiar with Rabbinic responsa will recognize this type of document.

the girls have reached the age of maturity, their dowers must be returned to them. This is in accordance with the *Sharīʿa*, because the dower is one of their rights and this is the case. God, may He be praised and exalted, knows best." The *fatwā* was sealed and signed with the *muftī*'s signature, as was the procedure in the *Maḥkama* under Ottoman rule.

The *kātib* instructed that a copy of the *fatwā*, together with his summary of the case, be sent to the *nāẓir* of the citadel. Upon its receipt, ʿAbdullāh and Khālid were summoned before the *nāẓir* and asked about this matter. If the allegations heard in court were substantiated by sworn testimony meeting the *Sharīʿa* rules of proof, the *nāẓir* was instructed to obtain the dowers for the two women. The total value of the dowers was three thousand *qurūsh*, or fifteen hundred *qurūsh* each, exceeding the Khedival limit for dowers. Therefore, the clerk also instructed the *nāẓir* to ask whether the dowers had been paid "before the well-known order was issued to prove marriage" (*qabla ṣudūri amri'l-bayyinati* [*sic*] *ʿalā'l-zawāji*). It seems that the dowers were assumed to have been given before the order was promulgated, since the clerk ordered the *nāẓir* to make certain that the dowers would be obtained from the women's former guardians, whether by obtaining a statement or other evidence substantiating the claim as it had been presented in court. As their sisters' legal proxies, the brothers were to collect the three thousand *qurūsh* from the guardians of the women.

This document indicates that the *kātib* now served under the direction of not only the *qāḍī*, but also the *ḥikimdār*, the civil governor of *Bilād al-Shām*, communicating the implementation of policies to other Khedival officials, in this case the supervisor of the citadel. The document also demonstrates that the order concerning dowers issued by the Superior Consultative Council in Damascus was implemented in Jerusalem, although it is clear that in this case the established rates exceeded those stipulated in that decree. The non-binding opinion of the *muftī* was recognized in the proceedings, but as in all *Sharīʿa* cases heard in the *Maḥkama*, testimony and investigation were directed to be conducted; however, this was to be done not by the *qāḍī*, but by the Khedival official. The *muftī*'s decision upheld the right of a bride (and not her guardian) to control the disposition of the dower. This was the sisters' property; it was not to be used to enrich their guardians, in accordance with classical Ḥanafī doctrine. The *muftī*, of course, based his opinion upon the *Sharīʿa*, and the women sought

to resolve the problem in accordance with the *Sharīʿa*. The case was decided, however, not by the *qāḍī* but by an official reporting directly to the *ḥikimdār*. Here, the shift of the Khedival government away from the *ʿulamā'* is clear.

The next two documents reflect the impact of conscription on the families of men taken into the army, another important phenomenon affecting family life throughout Syria during this period. In one case, a woman named ʿAyisha [*sic*], daughter of Muḥammad Abū Awis of the village of ʿIsawiya, came to the court and appeared before the *qāḍī* in November, 1836.[12] Also in court that day was her brother-in-law, Muḥammad Abū al-Ḥimaṣ. ʿAyisha stated that her husband, Gharīb b. Ḥimaṣ, brother of Muḥammad Abū al-Ḥimaṣ, had been conscripted, leaving her with no support. Muḥammad had then seized all of her husband's possessions without paying her anything to subsist on—"neither food nor drink nor clothing." Asked by the judge about this, Muḥammad Abū al-Ḥimaṣ responded that some of her husband's possessions had be mortgaged, some were in safekeeping, and some [i.e. seeds] had been planted.

After taking an account of the yield of his brother's crops, he had determined that ʿAyisha's share was one-third—valued at fifty *qurūsh*, and, in addition, one *mudd* of wheat and one-third *mudd* of barley.[13] The *qāḍī* then decided that she should be paid her share. Based upon that decision, the court sent a copy of the same document copied in the register to the authorities of the village of ʿIsawiya to inform them of the decision and instructing them that upon its receipt they were to ensure that Muḥammad gave ʿAyisha her husband's possessions and one-third of Muḥammad's produce, but only after her share of her husband's *mīrī* taxes was paid out of that amount.

In another case dealing with conscription, a woman appeared before the *Majlis al-Shūrā* of Jerusalem to petition for assistance.[14] This entry in the court records is important for three reasons. First, the formal composition of the case is organized and complete, with the woman's petition entered at the bottom of the document, the inquiry of the *Majlis al-Shūrā* regarding the matter addressed to the *mullā qāḍī* above it, and the *mullā qādī*'s response at the top. This

[12] *LCRJ* 320, 10.
[13] A *mudd* is a Qur'anically prescribed dry measure equaling twelve *rubʿa*.
[14] *LCRJ* 324, 4.

format conforms to other Ottoman documents.[15] Second, this document was issued after the withdrawal of Ibrāhīm Pasha from Syria, giving us important information concerning the administration of Jerusalem and the continued operation of the institution of the *Majlis al-Shūrā* following the Ottoman restoration. Third, the woman appeared in court and her petition (*maʿrūḍ*) is in the first person, expressed in her own voice.

Amina, the wife of Muḥammad al-Muhtadī, stated in her petition to "Their Honors" (*ḥaḍarāt*) [*sic*], the "Lords" (*arbāb*) of the Consultative Council of Jerusalem:

> I have a son by my former, late husband. An infantryman came to take [my son] into the army on 24 *Jumādā I* [probably the previous year, 1255, since the document is dated 3 *Jumādā I* 1256; accordingly, the son was to be conscripted on 4 August 1839.] Meanwhile (*bi-wāsiṭa* [*sic*]) I am old and broken and I have no one except [my son], and an Imperial Order was issued concerning the acceptance of substitutes, so I decided to convert all that I own and bought a slave (*raqīq*) to put [into the army] instead of my son. The slave presented himself for conscription in my son's place, but was not accepted and remained with me. After a while my husband took him. And then I decided to petition your Gracious Honors to get my slave because I am a woman among those who are weak and I have under my care small children, in order to help me with living in this world. And our Lord is noble hearted. May He preserve and protect you.[16]

This part of the document, dated 3 *Jumādā I* 1256/3 July 1840, ends: "The Petitioning Servant Amina, wife of Muḥammad al-Muhtadī." The middle part of the document, representing the inquiry of the *Majlis al-Shūrā* in response to Amina's petition, states:

> Since this matter concerns the *Sharīʿa*, it has been forwarded to the *Sharīʿa* judge (*al-ḥākim al-Sharʿī*) of Jerusalem so that the claim against her husband, the aforementioned Muḥammad, may be investigated so that it may be decided whether it has been established that the slave (*ʿabd*) is hers according to the *Sharīʿa*, or her husband's. Inform the Assembly of the decision of the *Sharīʿa* judgment (*ḥukm al-Sharʿī*) concerning this same petition. Hurry and execute this and the action it requires. Based upon this, this summary was issued by the Consultative Council of Jerusalem to His Honor the Chief Judge of Jerusalem, [to provide] information to assist him with that [investigation].

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[15] Halil Inalcik, 'Şikâyet Hakkı: 'Arz-i Hâl ve 'Arz-i Maḥzar'lar,' *Osmanlı Araştırmarlı* 7–8 (1988): 33–54.

[16] Again, the name *Amina* is uncertain, it could be read *Umna*.

This statement, called a "summary" (as were all documents drawn up in the *Maḥkama* or *Majlis* detailing action to be taken) was signed by "The Humble Jārallāh" on 4 *Jumādā I* 1256, the day after Amina petitioned the Consultative Council.

The top portion is the chief judge's response to the Assembly's inquiry. It is dated 5 *Jumādā I* 1256, the day after the inquiry was made. Thus, the matter was resolved in three days. The text reads:

> Your Honors, my dear Lords of the Assembly of Jerusalem—May God be exalted and protect you—a claim was made by the petitioner (*ṣāḥibat al-ʿarduḥāl* [*sic*]) against her current husband al-Muhtadī concerning the slave, stating that [the slave] was her property, but that [her current husband] had given him to Aḥmad Aghā in order to sell him, and that until now the latter has not paid him the price. When Aḥmad Aghā was asked about this [by the *qāḍī*], he answered that he had bought him for one thousand *qurūsh*, but that the price had remained as a deposit in trust for her and, that, at any rate, "it was up to the woman to inform her husband" that she wanted [the slave] in [her husband's] hands [so that he could be sold]. When [Aḥmad Aghā] had bought him from her, the woman [changed her mind] and wanted to take him back, i.e. [she wanted] him to return [the slave] to her. [Following these statements in court,] the woman agreed to sell [the slave] to him for thirteen hundred *qurūsh*. The slave was sold with her consent to Aḥmad Aghā, and Aḥmad Aghā's proxy bought him [right there, on the spot] in the *Sharīʿa* court (*Majlis al-Sharʿī*). The woman Amina, the petitioner, in the presence and view of her husband, al-Muhtadī, received thirteen hundred *qurūsh*. In this way the debt of the purchaser and his proxy was cleared, preventing any further criminal fraud or needless claim. In accordance with the decision, the slave has become the absolute property (*ṣāra milkan*) of Aḥmad Aghā. You are to be informed of this. Peace. [Signed] Al-Ḥājj Muḥammad Ḥamdī, *Qāḍī* of Jerusalem. Forgive Him!

The *qāḍī*'s account suggests that some negotiation and arm twisting went on that day in court. It is evident from this case that the Ottomans were conscripting men into their army and that an order regarding substitutes had been made known in the area around Jerusalem. Especially striking in both this and the first court case is the fact the position of the women involved was upheld, since their claims were justified in accordance with both the *Sharīʿa* and the policies of the *Majlis al-Shūrā*.

In addition to the domestic drama, this document indicates that the Ottoman restoration shifted the role of the *Majlis al-Shūrā* and the *Maḥkama*. Once again, the *ʿulamāʾ* had a part to play, and the members of the Consultative Council (now operating under Ottoman

rule) transferred cases falling within the purview of the *Sharīʿa* back to the *qāḍī*. The *Majlis al-Shūrā* was now subject to Islamic law, and not merely the instrument of the political regime. The Ottomans were enveloping the *Majlis al-Shūrā*, and the realm of *Siyāsa*, back into the fold of the *Sharīʿa*. The classical Ottoman conception of law was being revivified under the reforms of the *Tanzimat*.[17]

The Khedival Government and Administration of Awqāf *in Jerusalem*

Documents from the Khedival period shed some light on the changing circumstances of three broad sectors of Muslim society: the political-legal officials, the artisans and agriculturalists, and the urban 'property-holders.' Change is the keynote of this period, as old privileges and prerogatives were swept away and new forms of transactions began to be accepted. Yet change was neither universal nor uniform. Only by examining legal documents can the process by which accepted norms were altered and shaped to satisfy the needs raised by new circumstances be understood.

For example, first consider a number of cases concerning the appointment of the officials of the Muslim hierarchy. Although the *mullā qāḍī* continued to be appointed annually in Istanbul, he could no longer control the appointment of other officials when the Khedival government had changes in mind. Thus, during the 1834 rebellion, the new *muftī* of Ramla was appointed by Muḥammad Sharīf Pasha, the Civil Governor (*Ḥikimdār*) of Syria.[18] However, in May upon the death of the Shāfiʿī *Muftī* Shaykh Muḥammad Saʿīd al-Khalafāwī, the *Mullā Qāḍī*, Al-Sayyid Yaḥya Tawfiq, appointed Al-Sayyid Muḥammad Asʿad Afandī, *Imām* of *Al-Aqṣā* Mosque, as the new

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[17] Beshara Doumani has asserted that the extension of Islamic law into the villages of the Nablus region helped in the absorption of the countryside into the urban economic, political, cultural, and legal spheres, recognizing that "Islamic law proved ideologically and practically well suited for the capital transformation of the countryside." He asserts that this process accelerated during and after the Khedival period. However, since Nabulsians and other villagers used the Jerusalem *Maḥkama* during the entire Ottoman period, it is probable that this process had been under way for some time, arguably at least as far back as Ḍāhir al-ʿUmar's commercialization of the cotton crop. *Rediscovering Palestine*, 131–81, especially 133, 168.

[18] *LCRJ* 318, 70, 13 *Ramaḍān* 1249/24 January 1834, "Mīr Muḥammad Sharīf Kethūdā Khedīwī a'ẓam Ḥikimdār Eyālet Barr al-Shām."

Shāfiʿī *Muftī* in Jerusalem.[19] In the text of the appointment, the *mullā qāḍī* stated that this appointment was made by the Ottoman government, and added the supplication "May the Lord of Creation Uphold It!" (*min ṭaraf al-dawla al-ʿUlyāʾ ṣānahā rabb al-bariya*) recognizing the Ottoman Empire in the midst of their rebellion against the Khedival regime in Jerusalem.[20] This expression of fealty to the Ottoman state is an expression of the opposition of the *ʿulamāʾ* of Jerusalem to the Khedival regime.

It was in the context of a dispute among the members of the ʿAlamī family over the leadership (*mashaykhat*) of the *Khānqāh al-Salāḥiya*, a *Ṣūfī* lodge that was a part of the *Salāḥiya Waqf* established by Ṣalāḥ al-Dīn al-Ayyūbī in the twelfth century, and which supervised the Church of the Holy Sepulchre in Jerusalem (*al-riqāba ʿalā qumāma al-kanīsa al-kubrā*), that the reach of the Khedival government into the realm of the imperial *awqāf* was first felt by the *ʿulamāʾ* and *ashrāf* of Jerusalem.[21] The *mutaṣarrif*, or the appointee in charge of administering the *Khānqāh*, Al-Shaykh al-Sayyid Wafā Afandī al-ʿAlamī, had been in charge of the lodge by virtue of a sultanic *berāt* (Turkish), or 'certificate.' When he died, his sons contested one another for the position, and the issue came to the attention of Ibrāhīm Pasha. In the document issued by the *Sharīʿa* Court, the *mullā qāḍī* stated in his appointment of the new leadership that it was in accordance with an order issued by Ibrāhīm Pasha who "decides the conditions of donating a *waqf*." It is no coincidence that this news came on 25 April 1834, just three days before the outbreak of the rebellion in Jerusalem, and concerned one of the leading families of the city.

Nevertheless, on 23 June 1834 the *mullā qāḍī* appointed ʿAbd al-Raḥmān Afandī, the great-grandson of Muḥammad Abū Saʿūd Afandī, to fill half of the positions that his grandfather had filled, including serving as the prayer leader and preacher (*imām wa khiṭāba*), as well

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[19] *LCRJ*, 318, 118, 7 *Muḥarram* 1250/16 May 1834. Shaykh Muḥammad Saʿīd al-Khalafāwī's son, ʿAlī Afandī, was appointed as the new *imām* of *Al-Aqṣā* by the *Muḥdir Basha*, Muṣṭafā al-Khālidī, and was to receive six "*uthmaniya Sultaniya*" coins every year. Muḥammad ʿAlī al-Khālidī recorded the document. *LCRJ* 318, 120, last of *Ṣafar* 1250/7 July 1834.

[20] *LCRJ* 318, 118.

[21] *LCRJ* 318, 110, 15 *Dhū-l-Ḥijja* 1249. See also *LCRJ* 318, 320. The term '*al-kanīsa qumāma*' used here for the Church of the Holy Sepulchre is a derogatory one. It is used instead of the proper name—*qiyāma*, 'The Resurrection'—a Christian article of faith rejected by Islam—and means 'garbage.'

as the servant, clerk and other roles in *Al-Ḥaram al-Sharīf, Al-Aqṣā*, the *Takīya al-ʿImāra* and the *awqāf* of several mosques.[22] This indicates that the less important positions in the hierarchy of the imperial *awqāf* administration remained unaltered, following the usual rules of succession current in Jerusalem in accordance with the *Sharīʿa*. This appointment also indicates that during this period many individual institutions were administered within the *Al-Ḥaram Waqf,* and that a person could perform a number of roles within those institutions. In another appointment, these linked institutions included the *Al-Ḥaram, Nabī Mūsā, Nabī Lūṭ* and *Nabī Yūnis awqāf*.[23]

One of the most interesting documents on this subject is the case of Al-Sayyid Maḥmūd al-Muhtadī, "one of the merchants (*tujjār*) of Jerusalem" who was appointed as the custodian (*mutawallī*) of the important imperial *waqf* of Hebron—*Waqf Sayyidnā Khalīl*, the *Waqf* of the Beloved [of God—Abraham].[24] To the *afandiyāt* of Jerusalem, this was a real innovation, where to name a merchant as the custodian of an imperial *waqf* was unheard of, even if he was a *sayyid*, or member of the *ashrāf*. However, Islamic law did not require that such an appointment go to a member of the *ʿulamāʾ*. Heartened by his successful crushing of the rebellion, and probably wishing to make his point in one of the most ungovernable towns of the area, Muḥammad ʿAlī personally made this appointment.[25] Previously, the Porte had made these appointments, and now Muḥammad ʿAlī was himself taking on that role. Happily for us, Muḥammad ʿAlī knew from past experiences in Egypt that this would be viewed by the *ʿulamāʾ* of Jerusalem and *Bilād al-Shām* as outrageous, and so he offered an explanation for his action in the text of the document.

The order, addressed to the *mullā qāḍī* of Jerusalem (who, as frequently was the case, is not addressed by name) and to Ibrāhīm

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[22] *LCRJ* 318, 117, 14 *Ṣafar* 1250.

[23] *LCRJ* 319, 27, 11 *Jumādā I* 1250/15 September 1834.

[24] *LCRJ* 319, 31–2, 29 *Jumādā I* 1250/3 October 1834. See also Rustum, *Uṣūl* II:139–40, no. 147. His reading and mine differ on a few minor points. The importance of the *tujjār* class to Muḥammad ʿAlī is made very clear in Lawson, *Social Origins*.

[25] The order was sent from "*dīwān serʿaskeriya miṣr wārmakā al-quds al-sharīf*." Unfortunately, neither Rustum nor I could translate "*wārmakā*." It is clear that it specifically refers to the actual place where the commander in chief was located when writing an order, and usually it is used with Acre, not Jerusalem. I believe that Muḥammad ʿAlī sent this order from Cairo (*dīwān serʿaskeriya miṣr*) to Ibrāhīm Pasha and it was then reissued from Ibrāhīm Pasha's headquarters in Jerusalem.

Pasha's newly appointed *mutasallim* in that city, Jabr Abū Ghūsh, and to the rest of the prominent individuals of the city, the "*aʿyān* and the *wujūh*," begins with a description of the financial status of the *waqf*. Every year under the former regime, the order states, twenty thousand *qurūsh* from the revenues of the *waqf* were to be set aside for the treasury of the *wālī* of the province. With the establishment of Khedival government all of the people coming forward to the *waqf* as candidates to serve as its custodian ought to be ready to pay thirty-five thousand or more *qurūsh* to the Khedival treasury for the privilege. This indicates that this office was subject to auction, with candidates bidding for the appointment. However, "it had been ascertained by [the Khedival government] that those seeking to receive the appointment as custodian of the *waqf* competed for the post not for the sake of protecting the revenues of the *waqf*, but rather only for the sake of the assignment and greed (*al-wakl w'al-bala'*)." The document continues, "as for us, our desired aim is the protection of the *waqf*, the control of its revenues, and the distribution of its emoluments in accordance with the stipulated conditions of the *waqf*" by fulfilling the achievement of "safeguarding [the *waqf*] and satisfying God—Praise to Him, may He be exalted!" When the salary—"the old salary"—along with additional payments had been offered for the post, the candidates for the office of custodian would not accept them "and even demanded our revenues!" Therefore, "since collecting the revenues of the *waqf* against its debts and the disbursement of its pensions and salaries according to its conditions must be done exactly," and "since this requires a trustworthy and honest man (*rajul amīn wa-ṣādiq*) al-Sayyid Maḥmūd al-Muhtadī, one of the merchants in Jerusalem, came to mind, since he is a trustworthy man."

Thus it was decided that the custodianship of the *waqf* should go to a merchant with *siyāda*, a member of the *ashrāf*. However, since he was a man of commerce, he was required to give guarantees and to sever his family ties and commercial income in Jerusalem, Gaza, and Jaffa, if he were to be employed in the work of the *waqf*. As he would be expected to devote all of his time to the *waqf* it would be considered a breach of faith if he were to continue to work as a merchant as well. Therefore, Muḥammad ʿAlī decreed that Maḥmūd al-Muhtadī would work for the *waqf* in Jerusalem and Hebron as its custodian, so long as he gave the required guarantees and cut his ties to commerce. The order stipulated that the appointment would go into effect upon notice that those addressed in this order had

been informed of it in the court. Clearly a merchant could better afford the post than those dependent upon the Ottomans for their salaries. Muḥammad ʿAlī justified his decision by stressing his concern for the welfare of the *waqf*.

The order then details the function of the custodian of the *waqf* and the other officials of the city. First of all, information regarding the money due to the treasury of the *wālī*, that is, Muḥammad ʿAlī himself, and which had caused him to concern himself with this situation, was to be given to the custodian in the form of the records (copies) of the *waqf*'s clerk, with the hope that as a result, "the revenues will come, with the help of the *mutasallim* as well." Furthermore, the customary income of the *waqf* and its *sanjaq*s—i.e. the agricultural lands and villages which were attached to the *waqf* and which sent a portion of their agricultural produce to it, Gaza and Jaffa, were to be sent to the council (*Majlis*) of Jaffa. The council was then to write a summary of the account and bring it to the *mutawallī* and the *mutasallim* [of Jaffa, presumably], who should in turn exert their efforts to obtain the *waqf*'s revenues and send it in the form of cash (*dirāhim*) to the aforementioned *Mutawallī* Maḥmūd al-Muhtadī. He was ordered to keep an accurate record of the income and expenditures of the *waqf* and at the end of the year to send a ledger (*daftar*) recording all its income and expenditures. From the balance, all pensions, benefits and other salaries were to be disbursed, and the balance which remained was to be credited in the name of the *waqf*. Whatever was required for occasional expenses, such as construction, repairs, and other costs was allowed to be deducted from this balance. When such occasional expenses were incurred, all concerned parties were to be informed, and if the *waqf* had no debt, the *mutawallī* was given permission to expend the balance for these purposes. Upon the completion of such improvements, the *mutawallī* was instructed to present a ledger of the expenses allocated explaining them and to keep a record of the deductions in a financial statement.

What is notable about this order is that this appointment ended the customary control of the *afandiyāt* over an important foundation. While in accordance with Islamic law, it violated the power and prestige of the *afandiyāt* who traditionally controlled it. More importantly, Muḥammad ʿAlī was charging corruption on the part of the Ottoman *walī*, since the revenues of the *waqf* that had gone previously to the treasury of the provincial governor-general were the first

priority, and not the maintenance of the *waqf* or the payment of the benefits stipulated by its charter.[26]

From this document we can assume that Ibrāhīm Pasha had removed the previous *mutawallī* of the *waqf* although this is not explicit in the text. However, it is quite clear that there were a number of candidates competing for the post. It is hard to imagine that any of these candidates would have been audacious enough to challenge the salary offered for the post, but it is not difficult to understand that there were many *'ulamā'* who resisted the notion of sending the *waqf*'s revenues to Cairo instead of Istanbul. At this time there was probably still some confusion and resistance regarding the Khedival government's takeover of the political offices of the area, let alone its takeover of the very institutions of Islam that had long been the preserve of the Ottoman government and its local agents.

Furthermore, this document indicates the monetarization of the economy, since the revenues of the *waqf* were to be converted into cash and sent to the *waqf* custodian.[27] It is also worth noting that Jaffa was the place where this conversion was to take place, indicating the connection of Jerusalem to cities and towns beyond the *sanjaq*. This appointment also offers strong evidence of Muḥammad 'Alī's policy of strengthening the merchant class in Syria and weakening the power of the entrenched elites.[28] That he was pursuing this policy into the very heart of an imperial *waqf* shows his utter contempt for the Ottoman *waqf* administration and his determination to extend his control over the Islamic institutions of Syria.

Indeed, the role of the *mutasallim* in collecting these revenues underscores a complete schism with the Ottoman government. It will be

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[26] Muḥammad 'Alī may have been right, as the Ottomans had begun to confiscate foundation revenues by the nineteenth century.

[27] Deguilhem-Schoem, "History of Waqf."

[28] Doumani, basing his conclusions primarily on the papers of the *Majlis al-Shūrā* of Nablus during the 1840s and 1850s shows this trend very clearly, writing, "Merchants were the main beneficiaries of the changes brought about by the Egyptian occupation. . . . By the late 1830s they had managed to infiltrate the exclusive club of soap-factory owners and, to a lesser extent, the ranks of tax farmers—in the latter case not only as financial backers but also as bidders in competition with ruling urban and rural families." These merchants, he notes, did not begin to acquire land until the 1850s, unlike *umarā'* families, who started this trend in the 1830s; *Rediscovering Palestine*, 135, 161, 211.

recalled that by the late eighteenth century the provincial governor-general collected and disbursed the revenues on the Sultan's behalf. Having broken with the Sultan, Muḥammad ʿAlī collected and disbursed these revenues at his own pleasure. Since the document specifically mentions the *waqf*'s revenues from Gaza and Jaffa, which were to be converted into cash and sent to Jerusalem, we can deduce that endowments in these *sanjaq*s had been significant sources of income for the *waqf*. These *sanjaq*s had been held as *mālikāne* by the former Ottoman Governor-General of Sidon, ʿAbdullāh Pasha, who thus had been authorized to collect the *waqf*'s revenues for his lifetime, and as such had been administered directly by the Porte, which assigned those tracts, and not through the provincial government per se. Muḥammad ʿAlī clearly considered them his prerogative, since he was now the *de facto wālī* of Damascus and Sidon, and had confiscated all of the holdings of his predecessor.

Furthermore, from this document it is clear that part of the income of the *sanjaq*s of Jaffa and Gaza had been apportioned to the *Waqf* of *Sayyidnā al-Khalīl* at the direction of the Ottoman government as administrator of the imperial *awqāf*, and part of this share was also due to the provincial government of the *wālī* as the tax-farmer of those *sanjaq*s. Following the reforms of Sultan Maḥmūd II in 1826, if not even earlier, this money may have been earmarked for the *walī* of Damascus to be used every year by the *Waqf al-Ḥaram* in support of the annual *Ḥajj*. In the seventeenth century, a summary of this account went to the Sultan's treasury in Istanbul, from which disbursements were made. Indeed, this would be a logical understanding of the legal and fiscal connection of this *waqf* and the *Waqf al-Ḥaramayn al-Sharīfayn*, the *Waqf* of the Two Holy Cities, Mecca and Medina.

In an earlier document, three of Shaykh al-Wahhāb Afandī al-Shāhānī's sons had been appointed as clerks (*kātib*s) for the *Awqāf* of *Sayyidnā al-Khalīl* and *al-Ḥaram al-Sharīf* in Jerusalem, suggesting that those two imperial *awqāf* were administered together during the period immediately before the invasion of Ibrāhīm Pasha.[29] The appoint-

[29] *LCRJ* 315, 39, 26 *Shawwāl* 1246/9 April 1831. The document also shows that land in Ramallah al-Azariya was part of the *Waqf* of *Sayyidnā al-Khalīl* and *al-Ḥaram al-Sharīf*. At some point, these two individual *awqāf* had been combined and made a part of the *Ḥaramayn Waqf* which was administered by the *Evqaf-Hümayün Nezareti*, or Ministry for Imperial Religious Foundations formed in 1826 by Maḥmūd II. Barnes, *Religious Foundations*, 44–5.

ment was made by the *Wālī* of Sidon, ʿAbdullāh Pasha. It would be appropriate that the important religious endowments of Jerusalem and Hebron would benefit from the agriculturally productive *mālikāne* lands in Jaffa and Gaza, and, in turn, send a portion of their revenues in support of the *Ḥajj* to the Hijaz.[30] If this were the case, how much more reason would the *ʿulamāʾ* have to resist Muḥammad ʿAlīʾs order![31] If Muḥammad ʿAlī was laying claim to that revenue assigned to the provincial treasury in support of the *Ḥajj*, this would have been an outrage to the Muslims of Jerusalem and to the Porte, even though the Ottoman Mamluks in Egypt had been doing the same thing beginning in the eighteenth century. With the local leadership crushed, however, there was little that they could do to stop him.

Further underlining the seriousness of the Khedive's actions is the fact that it appears that the *Ḥajj* from Damascus to the Holy Cities did not take place during the years of his rule over Syria. In this connection, only one document concerning the collection of the *jizya* appears in the court registers covering this period. This order, in Turkish, was dated 20 *Dhū-l-Qaʾda* 1250/20 March 1835.[32] In the margin of the entry are the words "*firmān al-kharāj*." This Imperial Rescript concerned the collection of the *jizya* tax from the Christians of Jerusalem the next year by Muḥammad ʿAlī. Unfortunately, there is no evidence in the *sijillāt* that the tax was ever collected during this period, and it is my assumption that the *firda* tax, imposed on all of the population—Muslim, Jewish, and Christian—replaced the *jizya* during the Khedival period. Thus, the two most important functions of the provincial governor-general in regard to his financial

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[30] Thus, the purpose of the *Waqf al-Ḥaramayn* becomes clear, although it is important that the *waqfiya*, or charter of the *waqf*, be found and analyzed to support or refute this possibility. A strong case could also be put forward showing that each *sanjaq* had an administrator of the *Waqf al-Ḥaramayn* who was responsible for directing the *sanjaq*'s allotted contributions. Apparently Gaza and Jaffa sent their shares to Jerusalem, which would send the shares of all three to the *wālī* in charge of the *Ḥajj* caravan. James Reilly in his research has found mention of lands outside of Damascus which contributed to the *Ḥaramayn Waqf* in the Damascus court records. He found mention of the *Ghazī Sinān Pasha Waqf* as well. Reilly, "Women, Property, and Production," 11. Halil Inalcik in a personal communication suggests the *waqfiya* archives in Ankara for further research in this topic.

[31] While in Jerusalem, Shaykh Muḥammad Asʿad al-Imām al-Ḥusaynī and the late scholar Ishaq al-Ḥusaynī were pleased that I came across this evidence to prove that Muḥammad ʿAlī actually did confiscate the *awqāf* revenues, which they believed was the case but had not been able to show.

[32] *LCRJ* 319, 106–7.

responsibilities—the conduct of the *Ḥajj* and the collection of the *jizya* tax—remain problematic for the duration of the Khedival occupation of *Bilād al-Shām*.[33]

Later, on 30 March 1837 an equally stunning change in the administration of an important imperial *waqf* was issued from Nablus and was recorded in the Jerusalem Court registers on 11 April 1837.[34] On 30 March, the *Qāḍī* al-Sayyid Muḥammad Murtaḍa al-Jaʿfarī declared that he was voluntarily vacating the position of supervisor (*nāẓir*) of the theological school of the *Khaṣṣekī Sulṭān Waqf* located in Ramla (*Ramlat Filasṭīn al-maḥmiya*). In his place he named Ḥusayn ʿAbd al-Hādī, the *Mudīr* of the Province of Sidon under the Khedive. The *qāḍī* explicitly complied with the rules of evidence required by the *Sharīʿa* governing the transfer of authority over the *waqf*, although there can be no doubt that there was some degree of coercion in his so doing. The salary for this position was only twenty-two and a half *qurūsh* annually, so that control over the income of the *waqf* was the real motive for this appointment. The *qāḍī* in Nablus had little choice but to confirm the appointment, since the transfer was done in accordance with the *Sharīʿa*. In this way, the Khedival government attained control over another of the most important imperial *awqāf* in the area. The court registers in Jerusalem contained little other direct evidence regarding the subject of the administration of the imperial *awqāf* under Khedival rule.

Ḥusayn ʿAbd al-Ḥādī, as the *mūdīr* of the Khedival Province of Sidon, was reaping economic reward for his fealty to Muḥammad ʿAlī. Shortly after the beheading of Qāsim al-Aḥmad, Ḥusayn purchased half of the deceased's house and soap factory, characterized by Beshara Doumani as "icons of power," for only eight thousand *qurūsh*. During the late 1830s, his family moved from the little village of Arraba to the city of Nablus, where they began to amass their fortunes. During the years 1836–1840 they purchased extensive agricultural lands—including remote tracts producing grain and cotton. During this period the family also endowed as *waqf* a number of urban properties in Nablus, including soap factories, mills,

[33] Nahoum, *Recueil*, 175. Document 554 names Muḥammad ʿAlī as the *walī* of Egypt, Crete, Sidon, Tripoli, Damascus, the *mutaṣarrif* of Jerusalem and Nablus and the *amīr al-Ḥajj* for the Provinces of Damascus and Aleppo. See also 176, no. 556.

[34] *LCRJ* 321, 53. Issued on 21 *Dhū-l-Ḥijja* 1252, copied on 5 *Muḥarram* 1253.

and warehouses. Some of these transactions were recorded in the *Maḥkama* of Nablus.[35]

In an echo of the change in the traditional appointment of custodians of Islamic institutions in this period, one document records the complaint of Yūsuf al-Khalīlī, a cousin of the deceased custodian (*Wālī*) and leader (*Shaykh*) Ḥusayn ibn Muḥammad al-Hidmī of the *Ṣūfī* lodge, Al-Adhamiya, also called the *Zāwiya* of Ibrāhīm ibn Adham, just outside of the walls of Jerusalem. He challenged the *qāḍī*'s appointment of his cousin Muḥammad ʿAwda to the post. In the *fatwā* that was issued in response to al-Khalīlī's query, al-Sayyid al-Ḥājj Muḥammad Ṭāhir al-Ḥusaynī, the *Muftī* of Jerusalem, answered that the appointment of the "foreigner" (*al-rajul al-ajnabī*) from "another place" (*fī ghayri maḥallati*) was in accordance with the law, so long as he was related to the uncle who had passed away leaving the post vacant.[36] The two cousins appeared in court and Yūsuf al-Khalīlī accepted the appointment of Muḥammad ʿAwda before the judge, who forbade any further contest regarding the matter. Thus, even if a relative was not from the vicinity, and therefore was perhaps unfamiliar with the administration of the *Zāwiya*, the appointment remained acceptable because it remained within the family, according to the sultanic certificate of appointment.

However, in a later case, dated 15 May 1839, the same dispute concerning the appointment of a "foreigner" to the post of custodian of the Adhamiya order again arose in the court.[37] The *qāḍī* appointed Yūsuf al-Khalīlī as the *Wālī* and *Shaykh* of the *Zāwiya* of Ibrāhīm Ibn Adham, in accordance with a *Sharīʿa* court document dated 17 July 1835. Yūsuf, still dissatisfied with the previous decision, had rallied his resources to again contend with the *qāḍī*. The court then set upon a further review of the case.

It found that in 1837 another individual, Muḥammad Aghā al-Shamlūjī, had been appointed to the position by the court, but that that appointment had also been contested because he was not considered qualified for the post since "he was not from the people of Jerusalem" (*laysa min ahālī al-quds al-sharīf*).

However, the post did not remain vacant because Yūsuf al-Khalīlī was appointed internally to fill it, without any evidence of opposition.

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[35] Doumani, *Rediscovering Palestine*, 156–61, 208–11.
[36] *LCRJ* 322, 66–7, 17 *Jumādā I* 1254/8 August 1838.
[37] *LCRJ* 322, 206, beg. *Rabīʿ II* 1255/14 June 1839.

Two *fatwā*s were issued supporting Yūsuf in this matter, the first of which was by Muḥammad Ṭāhir al-Husaynī, the Ḥanafī *Muftī* of Jerusalem, and the second by Ḥusayn Salīm Afandī al-Dajānī, the Ḥanafī *Muftī* of the Port of Jaffa.

The first *fatwā* states:

> The position goes to whom the *qāḍī* appoints because of the sultanic order that when one dies leaving the position vacant, then it should go to his son, and if he has no son then to his brothers, and if he has no brothers then to his relatives, especially to him who is from the people of Jerusalem in honor of the Holy City and thus taking the opportunity to heed their pleas for their weak and the poor and not to bring in foreigners for this position. And as for the stranger to them, the court should expel him from that position. This is what is customary law (*ʿUrf*) in our noble city (*baladatinā al-sharīfa*).

The second *fatwā* cites the *Shaykh al-Islām* who had issued the legal opinion that such an expulsion was not valid and that there was no succession except on the basis of the *Sharīʿa*. If such a basis for expulsion could not be found, then he should keep the position with no reservations, the *fatwā* continued, "as it is written in the opinions of Abū Yūsuf in his book *Kītāb al-Kharāj* where he wrote 'it is not permissable to remove a position from its holder without his commission of an infraction (*junḥah*).' Furthermore, as he said in *al-Baḥr* that 'if the *qāḍī* dismissed a guardian and stipulated that an infraction had been committed,' and proved that 'there was another who would benefit the prestige of the guardianship without deception or lies,'" then the appointment could be withdrawn. If the appointment was to a foreigner (*ghayr ahl*) who was not from the people, then he should be expelled. The *fatwā* stated that "if there was revenue which the guardian controlled, then he must be trustworthy because the income of the *waqf* is dedicated to the destitute (*masākīn*) and an unreliable person would not safeguard it from being wasted or sold."

However, the final decision was based upon the instructions sent in summary form (*khulāṣa*) to the *qāḍī* by the Consultative Council (*Dīwān al-Shawārā* [*sic*]) in Jerusalem. The *qāḍī* acquiesced and gave permission confirming Yūsuf al-Khalīlī's right to retain the directorate (*mubāshira*) of the affairs of the *Zāwiya* and to control whatever concerned it.

The resolution of this dispute is interesting on many counts. Most important from the standpoint of understanding the values of the *ʿulamāʾ* in Jerusalem are the *fatwā*s issued by the *muftī*s of Jerusalem

and Jaffa. Their belief that only someone from Jerusalem would be able to answer the needs of the people meant to benefit from the *Adhamiya Waqf* gives us a new perspective from which to view the attitude of the *afandiyāt* toward all outsiders, including Muslims from elsewhere in the empire. The Muslims of Jerusalem were part of a unique community that adhered to customary law—*ʿUrf*—as well to the *Sharīʿa* and the *Qānūn*. Al-Sayyid Al-Shaykh Ṭāhir Afandī al-Ḥusaynī, the Ḥanafī *Muftī* of Jerusalem, and head of the *Majlis*, had seen much during the past few years. He had been arrested and exiled following the rebellion in 1834, but had been able to return to Jerusalem after a short time. The last line in his *fatwā* is resonant: "This is what is customary law in our noble city." A combination of pride and resolution can be heard in those words. The *muftī* wanted to assert the character of his community in the face of the erosion of the position of the *ʿulamāʾ* and the *ashrāf* in the past five years. His junior colleague in Jaffa sought to buttress al-Khalīlī's position by finding support in the great Ḥanafī legist Abū Yūsuf, upon whose works of jurisprudence the Ottoman legal structure was based. Both *muftī*s underscored the function of the *Zāwiya* in providing for the poor. But it is Ṭāhir Afandī's statement that most aptly summed up the feelings of the Jerusalem Muslim establishment under Khedival occupation and asserted their determination to defend their role in the city.[38]

However, it was not the opinions of the *muftī*s as *muftī*s which decided the matter. Indeed, the *qāḍī* was instructed to comply with the decision of the *Majlis al-Shūrā*, a decision that was made outside of the *Sharīʿa* court. The authority of the *ʿulamāʾ* within the political context had changed: their ability to function bureaucratically within the new administrative hierarchy was what would guarantee them influence in the Khedival system. Unfortunately we do not have a document illuminating the reasons for which the *Majlis* sided with Yūsuf al-Khalīlī.

Finally, this resistance to an outsider, even a Muslim outsider, taking over an Islamic institution is remarkable enough. How much more would the *ʿulamāʾ* resist non-Muslims who sought to control

[38] On the use of *ʿUrf* to justify the continuation of practices considered desirable by the local elite in the face of demands by the central government for compliance with new laws governing economic activities in Nablus, see Doumani, *Rediscovering Palestine*, 223–31, 241.

the land and property that the *afandiyāt* guarded for the sake of the Muslim community!

However, at that time such an attitude was the norm. Even the Ottoman Ministry for Imperial Religious Foundations had originally "hoped that by appointing local notables to the administration of evkaf in their district, sound management of evkaf would thereby be insured."[39] Ultimately, however, the Ministry deemed provincial notables unfit for this responsibility and turned in the *Tanzimat* period to the Porte's civil service for what they considered to be reliable candidates.[40]

The Commercial Sector

In contrast to the latter dispute, other appointments were routine. This can be seen in legal cases relating to Jerusalem's guilds, which continued to play a significant role in Jerusalem's economy during this period.[41] For example, the post of master of the guild of the goldsmiths (*mashaykhat ṭā'ifāt al-ṣuyyāghīn* [*sic*]) was jointly filled by two of the sons of the former guild master from the Dāūdī family, in accordance with the *Sharī'a* and the Ottoman administrative law (*Qānūn*) that governed the guilds. No one could work silver or gold in Jerusalem without their knowledge. They were also to insure that the *mīrī* taxes were to be paid "according to the law in effect governing this goldsmithing" (*ḥasab al-qānūn al-jārī fi hadhihi al-ṣiyāgha*).[42]

A later document, which referred to the appointment made in November 1836 as well as to an earlier one dating from 1831, confirmed that the leadership of the goldsmiths' guild was again kept within the family of the deceased *shaykh*, in accordance with "the old *Qānūn*" (*al-qānūn al-qadīm*).[43] The appointment included the stipulation that the payment of the *mīrī* taxes was still incumbent upon the guild. It was the *qāḍī* who made the appointment, based upon documents, including a sultanic *berāt* dated November 1831, which

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[39] Barnes, *Religious Foundations*, 131. The same could be said for most organizations of the twentieth century—many a consultant has suffered the wrath of employees who resented the intrusion of an outsider into their affairs!

[40] *Ibid.*, 131–2.

[41] See Cohen, *Guilds*, for the sixteenth and seventeenth centuries.

[42] *LCRJ* 320, 188, end *Rajab* 1252/10 November 1836.

[43] *LCRJ* 322, 233, *Jumādā II* 1247.

established the right of the family to the position in accordance with the *Sharīʿa*.

The Khedival regime had to insure the supply of provisions to both its military units and the cities under its control. In a document dated 20 *Rabīʿ II* 1249/6 September 1833, one aspect of this function is illuminated.[44] On that day, a group of notables from Bayt Jāla led by "the boast of the *āghā*s and the descendants of the Prophet," al-Sayyid Aḥmad Aghā al-Dizdār al-ʿAlamī, who had been directed by Ḥusayn ʿAbd al-Hādī, "*Serʿasker* of the Realms of Victory," to come to the court. They came to represent themselves and the entire village, with the villagers' assent, regarding the testimony that was to be given by Shaykh Muḥammad, the leader of the Bani Ḥassan, and Muṣṭafā Shaʿalt [*sic*], *Shaykh* of the village of al-Lūja. They claimed that thirty thousand *qurūsh* had been withdrawn from the treasury in Jerusalem by Ḥusayn ʿAbd al-Hādī to pay for one thousand jars of good olive oil, each valued at thirty *qurūsh* by the Jerusalem soap factory weight. Aḥmad Aghā al-Dizdār, on behalf of Ḥusayn ʿAbd al-Hādī, agreed to pay the thirty thousand *qurūsh* to the two villages upon the delivery and acceptance of the oil at the treasury in Jerusalem. These men, on behalf of the *mudīr* of Sidon, came to court expressly to register the terms of sale that had been agreed upon between the Khedival government and the men of Bayt Jāla and al-Lūja. They came to the *Maḥkama* to demonstrate that the parties had agreed to the terms stipulated in this document, and that the agreed-upon purchase price had been withdrawn from the treasury in Jerusalem to pay for the olive oil, an important commodity.[45]

A later document, dated 15 *Dhū-l-Qaʾda* 1250/15 March 1835, involved a dispute that had lasted since 1243/1827, originating in the reign of ʿAbdullāh Pasha.[46] This case also involved the village of Bayt Jāla. Here, a *dhimmī* named Salāma bin ʿIsā Makhlūf, one of the residents (*ahālī*) of Bayt Jāla brought charges against a group of *shaykh*s from the village including ʿIsā Rabāʾ, Yāsif the Poet (al-Shāʿir), and Rubīn bin Hannā Ṣāliḥ, all present in the court. He claimed

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[44] *LCRJ* 318, 9–10. See Doumani's discussion of this document, which places it in the context of the *salam* contracts that typified the moneylending practices in effect in Jabal Nablus, *Rediscovering Palestine*, 144–5.

[45] Doumani, *Rediscovering Palestine*, 33, 131–232, 239, 252–8.

[46] *LCRJ* 319, 84. In this case, as in all the others reviewed, no notations indicate court costs or fees charged to the litigants.

that in 1827, the then *mutasallim* of the city of Jerusalem Ibrāhīm Aghā Abāẓā had imprisoned him until the *mīrī* taxes for his village had been collected. Salāma's father ʿIsā had paid 2,675 *qurūsh* to the treasury in Jerusalem to obtain the release of his son. When Salāma had been released from prison he went to the heads of the village to ask them to pay his father back. They agreed to pay him back in olive oil, ordering the village to deliver 128 jars of oil by Jerusalem weight, valued at 1500 *qurūsh*, and 1175 *qurūsh* in cash. Up until the time of the court appearance, they still had not paid, and when they were asked about their intentions in court they did not respond. So the judge asked the three defendants about this matter and they answered that they had not given Salāma permission to pay the *mīrī* tax, and that the *mutasallim* had imprisoned him for his own misdeed, and not to hold him as a guarantor for the village.

The judge then asked Salāma for acceptable proof, so he brought two witnesses who testified in support of his claim that the village elders had ordered him to send 2,675 *qurūsh* worth of oil to the treasury in Jerusalem on behalf of the village. The judge accepted their testimony and ordered the defendants to pay 128 jars of oil and 1,175 *qurūsh* to Salāma. This individual had had to wait for a long period of time to settle the debt owed to him. He was not seeking amends for his incarceration, but had come to court to sue his neighbors. The fact that these Christians had not repaid him after a protracted period impelled Salāma, who was also a Christian, to turn to the Islamic Court of Jerusalem for redress. Since he was able to find two witnesses to support his story, in accordance with Islamic law, the *qāḍī* ruled in his favor and ordered the repayment of the debt. The fact that this took seven years is also an indication of the political instability of the region until the suppression of the rebellion in 1834.[47]

Similarly, in 1850, a group of Nabulsian textile merchants submitted a petition to the Nablus Consultative Council asking for the cancellation of an illegal tax imposed upon them by the "Egyptians" in 1838/1839, which they claimed "did not exist anywhere else in

[47] Doumani discusses this case, which I shared with him as well, focusing on the issues of taxation, moneylending and peasant differentiation; *Rediscovering Palestine*, 145–6.

the Protected Dominions." As a result, they claimed to have suffered "decline and damage." They further stated that they paid the proper import and export customs as required by Ottoman law, but that if they continued to have to pay the illegal impost, they would be "totally ruined." They reminded the Porte that the state could not "allow its subjects to suffer treachery and decline." The council then forwarded the petition to Sidon, with the comment that the tax referred to in the petition was indeed illegal and that the matter was worthy of investigation.[48] This document provides further evidence that Khedival policies meant to gain control over the economic resources of the region through the imposition of new taxes, in this case on manufactured stuffs.

It is fair to conclude from these cases that so long as the Khedival government had no interest in the administration of certain institutions, such as a *Ṣūfī* lodge or the goldsmiths' guild, and where there was no economic benefit to be derived, the *Sharīʿa* and the rules of Ottoman administration and local commercial activity remained in place. Where there were real benefits to be had, the Khedival government had no fear risking innovation that would result in its enrichment. Justice based on the rule of law could be upheld in the court if there was no overriding political or economic interest in circumventing it.

Rural Land Tenure During the Khedival Period

The Islamic Court registers for the years 1831 to 1839 contain many useful documents relating to the issue of Ottoman land tenure prior to the official *Tanzimat* in 1839. It is in this part of the law that the enduring features of the Ottoman legal system demonstrate their resilience despite Khedival efforts to extend its control over the resources of the area. While Muḥammad ʿAlī dared not monopolize the cotton trade in Syria, for fear of alienating European support for his regime, a concern which had found its fullest expression in his agreement to support 'free trade' in the Anglo-Turkish Commercial Convention of 1838, he was not unaware of the resources beyond the scope of the Convention: *waqf* revenues.[49] These land dispute

[48] *Ibid.*, 127–8.
[49] *Ibid.*, 45, 102.

cases and the issue of land tenure are important for the evidence they provide concerning the continued existence of the *muqāṭaʿa* system during this period. Thus, although Muḥammad ʿAlī was establishing new laws and institutions, he did not tinker with the fundamental typologies of land under Islamic government as *waqf, tīmār*, and *mālikāne*. A parcel of land retained its legal identity even while Muḥammad ʿAlī diverted its revenues as he liked.

The cases discussed in this section and the next are samples of land tenure disputes or transfers involving rural agricultural lands and urban real estate. They involve a wide range of social classes, and both men and women, providing factual detail concerning the actual functioning of the *Maḥkama* and other Islamic institutions under Khedival administration.

Although Maḥmūd II had initiated the reorganization of provincial government in 1826, it is clear from the records of the Islamic Court that these reforms had only begun to be applied in *Bilād al-Shām* when they were interrupted by Muḥammad ʿAlī. The original Ottoman land tenure assignments had therefore never been formally changed, and indeed, the evidence shows that some of the original *tīmār* and *waqf* assignments, dating to the sixteenth century, were still in force during the Muḥammad ʿAlī period.[50] However, in the following cases it is possible to see some of the ways by which land tenure was being altered in the nineteenth century (besides the notable change from the *iltizām* to the *mālikāne* system, which was instituted throughout the empire in 1695).

In a case dating from the time when ʿAbdullāh Pasha was still the *wālī* of Sidon and the *sanjaq*s of Gaza, Ramla, Jerusalem, and Nablus, a dispute arose concerning the *Waqf* of *Sayyidnā Rūbīl*, whose tomb was located in the *nāḥiya* of Ramla.[51] The *ʿālim* al-Sayyid al-Ḥājj ʿAlī Afandī Khālīdī Zāde, serving as the proxy of his two sons, al-Sayyid Shākir Afandī and al-Sayyid ʿAbd al-Qādir Afandī, who were the two *zaʿīm*s of a village in the *nāḥiya* of Gaza, brought a claim against their fellow *ʿālim* al-Shaykh Muḥammad Fayḍī Afandī

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[50] See Hütteroth and Abdulfattah, *Historical Geography*, 111–56 and maps 2 and 4.

[51] *LCRJ* 315, 13, 22 *Dhū-l-Qaʾda* 1246/4 May 1831. "*Rūbīl*" is a variant form of "*Rūbīn*"—Reuben—reflecting the Palestinian pronunciation of the final "n" of some words as "l." Fred Donner in a personal communication points out that the same n/l shift is found in the Lebanese dialect, where the consonant shift can go from "l" to "n" as well.

Khayr al-Dīn Zāde, the *Muftī* of Ramla and the guardian (*Mutawallī*) of the *waqf*.[52] ʿAlī Afandī claimed that the *ziʿāmet* belonging to his sons included a parcel of land neighboring the tomb "bordered to the south by the bridge south of the land of Bayt Jibna (Yavne), to the east by the land of Qiryat al-Qabīb, to the north by the lands of the ruined town of Sarafand, and to the west following the road to the gardens at ʿUyūn Qāra."[53] He accused the *muftī* of seizing the land and cultivating it, without giving any of the *ziʿāmet*'s produce to them as required by the Imperial license (*berāt*) granting the *ziʿāmet* "in accordance with the *Sharīʿa*." The *muftī*, when asked about the charge by the *qāḍī*, replied that the land delineated above had been at the disposal of the *mutawallī* of the *waqf* for a long time—for more than thirty years he had been in charge of its use, with the right to cultivate it and to dispose of its revenues (as *mutaṣarrif*)—and that no one who had had the *tīmār* formerly had used the land and "only now, when the crops had germinated and were beginning to crop up," was there any interest in it. "If it had been desolate," he said, there "would be no benefit in it," and there would be no claim. He had no other proof for his case—i.e. documentary evidence—so the *qāḍī* asked the two parties to bring witnesses to testify on their behalf. Two witnesses, Muḥammad Baṣīlih [*sic*] al-Ramlī and his brother ʿAbd al-Raḥman testified in support of the *muftī*, adding that they knew of "no one who had the right to cultivate the land except the *waqf*."

Their testimony was accepted by the court. Therefore, the judge ruled that the land was a part of the *waqf*. Al-Sayyid al-Ḥājj ʿAlī al-Khālidī acknowledged his recognition of the court's decision, agreeing not to contest the *muftī*'s right to cultivate the land.[54]

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[52] These individuals may be related to a Gaza branch of the Khālidī family, which may have been distantly related to the Jerusalem branch, or it may be another family having the same name. If the two were related, the fact that one branch was *ʿaskarī*, and the other *ʿulamāʾ* points to the lengthy history of the family in Palestine. The social distance between the two families also points to the cultural differences between the two classes in Ottoman society.

[53] *LCRJ* 315, 13. Amnon Cohen pointed out that in Hebrew, it was called ʿAyn HaKoray, now Rishon L'Tzion. Yibnā and Sarafand al-Kubra appear in the 1596/1597 *daftar mufaṣṣal*. Yibnā was divided into the usual twenty-four sections, and six of these went to the *pādīshah*, sixteen went to *waqf*, and two were assigned as *mulk*. Sarafand al-Qubra was dedicated totally as *waqf* land. Hütteroth and Abdulfattah, *Historical Geography*, 143, 152.

[54] In a later document, the *Mutawallī* of the *Ghazī Sinān (Sinān Pasha) Waqf*,

This case reflected the support that Ottoman law gave to the cultivators of land, preferring to encourage cultivation by an individual not named as one having the right to cultivation if the land was left unworked by the formal holders of the *tīmār* grant. The *ziʿāmet* may have still been in effect, but despite being *zaʿīm*s of a village and having a *berāt* to support their claim to the land the two Khālidī brothers lost the right to claim any of its produce since they had not seen to its cultivation for over thirty years. This was all the more important since the land was being used to support a *waqf*.

Douglas A. Howard has shown how the *tīmār* system had changed in the sixteenth and seventeenth centuries to make the cavalry corps of the Ottoman Empire an effective fighting force. Stressing the pragmatic nature of these changes, Howard analyzed the process by which local groups were integrated into the *tīmār* system. Howard's work is important to our understanding of this case. It would seem on the surface that the *tīmār* system in this region had eroded to the point that minor sons could share in the *ziʿāmet* of their deceased father, indicating that the possession of a *tīmār* grant had become heritable. However, Howard showed that in "order to facilitate the acquisition of their rightful *tīmār* upon reaching the age of majority, minor sons of deceased *sipahi*s [calvary officers] were advised to register a retainer . . . as their proxy in the intervening years" and that minor sons were authorized to "obtain joint . . . *tīmār*s until they came of age," although he thought that this practice was abandoned by the 1570s. Boys twelve years of age and older had seven years to apply for their own *tīmār*s, and following this period their connection to the *ʿaskarī* class, like others whose service to the Sultan had also gone unfulfilled for seven years, would be voided. So long as the application, certification, and rotation regulations described by the *Qānūn* were followed, the *tīmār*s in the *sanjaq* of Jerusalem and its surrounding *sanjaq*s were thus, even in the nineteenth century, still valid.[55] The *ziʿāmet* holders had not kept up the cultivation of the

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Muḥammad Aghā, son of Qāsim al-Dashagī, who held a sultanic *berāt* giving him the usufruct over the land, leased the lands to Muḥammad ʿAlī Afandī al-Ḥusaynī, the *Qāʾimmaqām Naqīb al-Ashrāf* of Jerusalem, who was acting on his own behalf and as the representative of his brothers ʿAbd al-Salam and ʿAbd al-Laṭīf al-Ḥusaynī, the sons of ʿUmar Afandī al-Ḥusaynī, the former *Qāʾimmaqām Naqīb al-Ashrāf* of Jerusalem. The *waqf* included Sarafand al-Kubra and its lands in the *nāḥiya* of Ramla as well as other land. *LCRJ* 319, 184, mid-*Rabīʿ II* 1251/10 August 1835.

[55] Howard, "Timar System," 87–8, 93, 176, 210.

land in question, and it was that failure which led to their loss of the right to dispose of the land.

This case illustrates several additional points. Under the Ottoman system, urban families, even *ʿulamāʾ* families with ancient roots in the military groups that conquered Jerusalem, continued to hold positions of military rank in the rural economy. However, it is unclear whether the *zaʿīm*s in this context actually ever had performed any military duties for the Sultan—if they did, this would further complicate our understanding of the military organization of the empire during this period. Any Ottoman official could be granted a *ziʿāmet,* without necessarily having military responsibilities, and so this question remains open.

Since their village was located in the *nāḥiya* of Gaza, and the land in question was in the *nāḥiya* of Ramla, both of which were agricultural areas administered by the Porte as a part of its provincial military system and which had been *mālikāne* during the time of ʿAbdullāh Pasha, it can be deduced that the agricultural areas of Palestine were administered by the Porte in various ways within the same time period—by granting lands as *mālikāne* to the provincial governor-general or other important Ottoman officers, such as the *qabṭān pashā*, and by singling out specific villages or tracts of land and granting them as *tīmār*s, even at this late date. This refines our understanding of the ways in which the Porte allocated its resources and delegated its power in the area.

Not all of the Palestinian lands were granted to one individual as a grant or in return for a payment. Rather, the power and resources of the area were distributed to various individuals, of various classes, probably in order to prevent the centralization of resources and control in one individual. Moreover, the holders of imperial licenses had to abide by the rules of Ottoman law concerning cultivation or they risked losing their rights to enterprising cultivators who made use of desolate agricultural lands. A *waqf* administrator could add to the lands at his disposal by making use of this aspect of Ottoman land law. This case raises many interesting questions, and underscores the complexity and the flexibility of both the land tenure system and the law during the early nineteenth century.[56]

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[56] Deguilhem-Schoem, "History of Waqf," 100–5.

In another dispute, the *mutawallī*s of the *waqf* of Sīdī al-Shaykh Aḥmad al-Dajānī, including Ṭaha Darwīsh and his brother Aḥmad, ʿAbd al-Wahhāb al-Dajānī, Muḥammad Yaḥya al-Dajānī, ʾAnīs al-Dajānī, and Khalīl al-Dajānī accused Ibrāhīm Abū Ghūsh and his brother Jabr of harming the interests of their family's *waqf*.[57] The dispute was over land belonging to the village of ʿAjanjūl, based upon a *ḥujja* (document issued by the *Sharīʿa* court) dating from 1653 delineating the borders of the land in question and assigning it to the *waqf*. The Dajānīs, members of Jerusalem's *ashrāf* class, claimed that the people of a neighboring village, Bayt Nūbā, cultivated the land belonging to the village of ʿAjanjūl which was to pay twelve *mudd* of wheat annually to the *waqf*.[58] Ibrāhīm and Jabr Abū Ghūsh were opposed to paying the *waqf* its share, and the Dajānīs demanded that they be prohibited from cultivating the lands belonging to ʿAjanjūl, "because the people from Bayt Nūbā were mixing up the lands of ʿAjanjūl with the lands of Bayt Nūbā, resulting in harm to the *waqf*."

Ibrāhīm and Jabr acknowledged in court that ʿAjanjūl's lands were attached to the *Sidi Aḥmad al-Dajānī Waqf*, that there was an annual amount of twelve *mudd* of wheat assigned to the *waqf* from its produce, and that the borders of the land delineated in the Dajānīs' document were correct. The *mullā qāḍī* therefore ordered Ibrāhīm and Jabr Abū Ghūsh and the people of Bayt Nūbā to cease cultivating the lands belonging to ʿAjanjūl, since they were harming the *waqf*. The *mullā qāḍī* forbade any further disputes by the Abū Ghūshes against the Dajānīs. The *Mutasallim* of Jerusalem, Shaykh Saʿīd al-Muṣṭafā, was informed that a *buyuruldu*, or sultanic certificate, concerning this matter was coming from the *wālī* of this region, stating that ʿAjanjūl was a part of the *Waqf* in accordance with the Imperial Register (*Daftar al-Ḥakānī*) and sealed with the noble *ṭughra* (sultanic seal) originating from the *daftarhane* (registry) in Istanbul. The *mullā qāḍī* then permitted the Dajānīs to undertake the cultivation of the

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[57] *LCRJ* 315, 65. An account of this dispute, as copied in the register, was addressed to the *wālī* of Sidon, Jerusalem, Nablus and Hebron, and the *sanjaq*s of Gaza, Ramla, Lyd, and Jaffa—but the name of the *wālī* is missing. The date of the document is mid-*Rabīʿ I* 1247/approximately 24 August 1831. ʿAbdullāh Pasha would still have been the *wālī* at this time.

[58] Nūbā appears in the 1596/1597 *daftar mufaṣṣal*, showing that it was assigned as both *waqf* and *tīmār* land. ʿAjanjūl does not appear. Hütteroth and Abdulfattah, *Historical Geography*, 124.

lands by whomever they chose to preserve the income of the *waqf*. A follow-up document from the *mullā qāḍī* to Ibrāhīm and Jabr Abū Ghūsh and the people of Bayt Nūbā permitted them to cultivate the lands of ʿAjanjūl so long as they paid the annual amount of wheat due to the *waqf*.[59]

This dispute is notable because it concerned two families that were directly involved with Muḥammad ʿAlī. It will be remembered that the Dajānīs had made a deal in 1830 with Muḥammad ʿAlī concerning the buildings belonging to the Dāūdī-Dajānī *Waqf* on Mount Zion, and that the Abū Ghūshes were on bad terms with ʿAbdullāh Pasha preceding the occupation. After intially siding with the Khedival government after the occupation, they had opposed it, although they were soon again co-opted by the regime. Although there is no indication of the political aspect of this conflict, it is interesting that this case shows that the Abū Ghūsh family had some authority over the village of Bayt Nūbā and the cultivation of its lands, although the nature of that authority is not spelled out in the case. This further proves that the Abū Ghūsh clan was more than simply a band of brigands based in Qiryat ʿInab which had abused its right to collect tolls from travelers on the Jaffa-Jerusalem road. They belonged to the class of rural notables, and probably fell into the same broad category of the *umarā'* of the Nablus region.

Moreover, the urban Dajānī family had rural interests in lands attached to their family *waqf*. It would seem from this case that the village of ʿAjanjūl was unpopulated, and that its lands could only be cultivated by neighboring villagers. Nevertheless, although the Dajānīs could not benefit from the land without the labor of those villagers, the *mullā qāḍī* upheld their right to claim a portion of its produce to benefit their *waqf*. This case underscores the flexibility of the law in support of the maintenance of a family *waqf*, despite the fact that the actual cultivators were not originally assigned to its support. The *mullā qāḍī* ordered the *mutawallī*s of the *waqf* to choose the cultivators, and they in turn allowed the villagers of Bayt Nūbā to continue to work the land so long as they paid the *waqf* its due. Any surplus would then go the cultivators, and perhaps a portion of that surplus would then go to the Abū Ghūshes. It is notable that no mention is made of the payment of the *mīrī* taxes that may have been due to the provincial government.

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[59] *LCRJ* 315, 70. Dated mid-*Rabīʿ I* 1247 as above.

In another case, the *mullā qāḍī* upheld the rights of both the holders of a *tīmār* and a *waqf* in a dispute concerning two parcels of land outside of the village of al-Bīra.[60] This document is dated the last day of *Shaʿbān* 1249, or 11 January 1834, indicating that the *tīmār* over this land was still in force at that late date. The land in question included two parcels of land including pasturage and cultivated tracts, whose borders were well known among the people of the village. The plaintiffs in the case were three men, Sulaymān al-Niṣr, a certain ʿAmār, and a certain Naṣṣār from the village of al-Bīra. They accused Muḥammad Abū ʿUbayḍ, the legal guardian of the two minor sons of Ibn ʿAmār Muḥammad Abū Salāma—ʿAbd al-Laṭīf and Ḥusayn—also from al-Bīra, of taking the two parcels of land illegally, which they claimed belonged to them and to their fathers. They demanded that the land be returned to them, saying that they would pay the employee in charge of the *waqf* and the family holding the *tīmār* in accordance with the *Sharīʿa*.[61]

When the defendants were questioned about the charge, they replied that the land was legally at the disposal of Muḥammad Abū ʿUbayḍ and Muḥammad Abū Salāma, the father of the two minors, which he had obtained from their fathers, and their fathers from their grandfathers, over eighty years previously.[62] They testified further that their right to use the land previously never had been challenged by a judge, but that this fact had not stopped the plaintiffs from making a claim against them. So the defendants presented a *fatwā* from the *Muftī* of Jerusalem, Muḥammad Ṭāhir Afandī al-Ḥusaynī. The summary of the *muftī*'s answer was "Praise be to God, and prayers and peace upon His Prophet. In situations like this, their [that of Sulaymān al-Niṣr, ʿAmār, and Naṣṣār] claim is not permitted, as is well known in most books, and this is the case. God in the highest knows best."

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[60] *LCRJ* 318, 57.

[61] In the 1596/1597 *daftar mufaṣṣal*, Bīra is divided into sixteen parts *tīmār* and eight parts going to a local tribe as *ḥaq al-ʿarab*. Hütteroth and Abdulfattah, *Historical Geography*, 149.

[62] The response of the plaintiffs is in the dual form. Could the two minors, sons of Muḥammad Abū Salāma, testify on behalf of their guardian, Muḥammad Abū ʿUbayḍ, who was also their employee? In line nineteen, the grammar indicates that the two sons were the holders of the *tīmār*, and their guardian was employed to maintain both the *tīmār* and the *waqf* portions of the two parcels of land concerned in this case.

The plaintiffs then were asked about the defendants' answer and they testified that the defendants' statement was true and that "all of the two parcels of land were under the legal disposition of the defendants and that it had been under their control and their father's control but that they had not been able to obtain their right and so it did not seem to be in accordance with the *Sharīʿa* to affirm to them what this suit claimed."

When the *mullā qāḍī* learned that the defendants had taken possession of the two parcels of land and had put them to use, and that their opponents, the plaintiffs, had acknowledged that the defendants' testimony was true concerning the usufruct of the land, he informed them their suit was not permitted and that they were forbidden to oppose Muḥammad Abū ʿUbayḍ and the two minor sons of Muḥammad Abū Salāma. He ordered the *tīmār* holders to pay the employee in charge of the two parcels of land from the *waqf* and the *tīmār* as they had paid in the past.

It would seem that what occurred in this case was a dispute over the actual utilization of two tracts of land. There was no dispute that some of the yield derived from the land was to be paid to the employee in charge of the *waqf* and the *tīmār* land, Muḥammad Abū ʿUbayḍ. What was in dispute was his ability to utilize the land—if he was unable to put it to use, then the plaintiffs believed that they were within their rights to cultivate it. Perhaps for some time they actually had cultivated and used the land. However, Muḥammad Abū ʿUbayḍ apparently had cultivated the land recently, displacing the former cultivators. Under Ottoman law, as we have seen, if the land lies in waste and unauthorized cultivators reclaim it, then the latter gain the right to cultivate the land. However, in this case, since the plaintiffs conceded that the right of usufruct was the defendants' they lost their case. If they had proved that the land had been waste for a period of time and that they had reclaimed it through cultivation, perhaps the *qāḍī*'s decision would have been different. As it was, the defendants were the only ones to present evidence to support their claim to the land. Their evidence was a *fatwā* supporting their position, and not a *waqfiya* or *berāt* documenting their right. Since the *qāḍī* was faced with a *fait accompli*, he may have decided to rule in favor of the defendant since the land was now under cultivation, and so recognize and legitimize the status quo. This conservative interpretation of the law thus supports that important tenet of Ottoman land law—confirming the rights of the cultivator

who exploits the resources under his control. It is unfortunate that the details of which lands were held in *waqf* and which were *tīmār* were not spelled out, but in all probability the first tract of land, which was called "*Diyār al-Shabāb*" and included three sections of agricultural land used as common pasturage, belonged to the *Ṣalāḥiya Waqf*, and the second tract, known as "*Shiʿb Muḥammad ʿAlī*" which contained fig trees for cultivation and also agricultural land, belonged to the *tīmār*.[63]

Another case which demonstrates that lands granted as *tīmār* continued to operate as *tīmār* dates from 23 May 1837.[64] This document records an agreement reached outside of the Islamic Court (*sulḥ*) by two disputing parties from the villages of al-Ṣirāʿ and al-Tall. The conflict between the two opposing parties centered on a parcel of land called "the land of Abū Rayyāsh" which was a part of "the *tīmār* of the children of the deceased Ṭūqān Bey"; the document states that the dispute had been "going on for a long time." With the help of mediators, the agreement stipulated that, based upon "the right of cultivation" each party would have the right to cultivate an agreed-upon portion of the disputed land.[65]

When the agreement was stipulated in the court in accordance with the rules of evidence required by the *Sharīʿa*, each party released the other from all further claims and legal proceedings. The statements of the parties in the court superceded all previous documents issued regarding the dispute. Upon this, the *qāḍī* declared the agreement valid, and instructed the parties to adhere to the stipulations of the agreement, and most importantly, to pay the holders of the *tīmār* their due from the revenues of the land.

The once informal agreement (*sulḥ*) thus now had the force of *Sharīʿa* law behind it. The *qāḍī*, by drawing attention to the rights of the *tīmār* holders in this case, upheld their formal right to utilize the land, while at the same time upholding the rights of the cultivators to work the land.

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[63] Unfortunately, the identity of the *waqf* is not clear. However, the document indicates that it belonged to the *Ṣalāḥiya Waqf*—in line four of the document mention is made of what is allotted as a "*Ṣalāḥī* share." This would refer to lands belonging to the *Waqf* of Ṣalāḥ al-Dīn al-Ayyūbī, which held properties in Jerusalem and outside of the city, and which of course therefore had tremendous political and religious significance for the Muslims of Syria.

[64] *LCRJ* 321, 74, 17 *Ṣafar* 1253.

[65] In the *daftar mufaṣṣal* of 1596/1597, the place name Ṣirā appears. It was at that time all *tīmār* land. Hütteroth and Abdulfattah, *Historical Geography*, 154.

From this and the previous cases it is possible to draw some general conclusions regarding land tenure in the rural areas of southern *Bilād al-Shām* during the Khedival period. The Islamic Court supported the holders of documents establishing their right to make use of lands, whether by grants of land as *tīmār*, or as land held as *waqf* throughout the 1830s. The actual cultivators of agricultural lands also had rights, which were established by the very act of cultivation and which were upheld by the court. Formal claims on land were based on *waqfiya*s and *berāt*s and documents issued by the Islamic Court itself, but those rights were protected only so long as the land allotted to the holder was utilized. On the other hand, land that lay waste could be claimed by the right of cultivation by its cultivators.

During this period, *berāt*s and *waqfiya*s had become frozen, since the Sultan, having lost effective control over the area, obviously could not personally reassign the grants upon the deaths of their possessors, nor call upon *tīmār* holders to serve in the Ottoman army. These documents nevertheless acquired *de facto* and *de jure* the force of a deed: the formal delineation of the boundaries of the land and the stipulation of the possessor's obligations concerning its utilization, contingent upon the Sultan's recognition of those rights.

It is quite clear that whether the land was held as *tīmār, waqf*, or *mālikāne*, the ultimate ownership of the land remained the absolute prerogative of the Sultan of the Ottoman Empire, even during the Khedival occupation. The disposal of land throughout the empire was conditioned upon the payment and collection of specific revenues and the performance of specific duties.[66] Both the cultivator and the holder of a sultanic document were obligated to pay a portion of the revenues of the land in accordance with the specific conditions of the grant. In addition to the tax on certain agricultural lands, i.e. the *mīrī* tax, which was due to the Porte via the provincial governor-general during the pre-Khedival period, as well as the *jizya* tax on the non-Muslim populations of the empire, the cultivators of the land owed the formal holders of the land revenue—in cash or in kind—that can only be interpreted as rent for leased property.

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[66] Thus, by the 1830s payment in cash had replaced completely the performance of duties upon which the original land tenure system had been established. The absence of direct evidence that *tīmār*-holders were paying a *bedel-i tīmār* allows us only to suggest that the *tīmār* system remained embedded as a structural support in the administration of southern Syria at this time.

Laborers who cultivated the land for those who held the right to cultivate it depended upon the certificates issued to the landholders by the Porte and upheld by the legal authorities to protect the cultivators' rights to work the land and to subsist on it.

During this period, proof for the right of cultivation—i.e. the payment of rent—resided in three sets of documents: the certificate allocating the land to its possessor in the form of *waqf, tīmār*, or *mālikāne*; receipts showing *mīrī* payments to the Porte by the possessor of the grant; and receipts showing payment in cash or in kind to the holder of the land for the produce cultivated on it and the payment of the *raʿāyā*'s share of the *mīrī* tax to the land holder. The rural farmers and cultivators had recourse to the Islamic Court, both in their own jurisdiction or in the central court in Jerusalem, where documents from throughout the area could be, and were, validated and recorded in accordance with the rules of evidence required by the *Sharīʿa*. Unfortunately, these documents were not catalogued, but it is evident that then, just as today, 'leaseholders' possessed documents establishing their rights to cultivate or otherwise make use of the land.

Moreover, from the cases cited above, the formal possessors of lands granted to them by the Sultan were not necessarily involved in suits concerning their land that arose among the various cultivators. The holder of a *tīmār* need not be present in the court to assure that his rights would be upheld by the court; so long as the cultivators acknowledged their obligations to him, the *qāḍī* safeguarded his rights.

The role of the *qāḍī* during this period was to maintain the clear right of possession of the land during this period, despite the political and economic changes that occurred under Khedival law. Only in this light can the maintenance of the *tīmār* institution, as well as the formal designation of lands as belonging to *awqāf*, even as they were taken over by the Khedival government, be understood. By upholding the right of possession established during the pre-Khedival period, the Islamic Court was preserving the tenure of the land until *Bilād al-Shām* would be brought once more under direct Ottoman rule. Only at that time would the mixed system of land tenure which Maḥmūd II had begun to reform during the governorship of ʿAbdullāh Pasha be transformed.

Interestingly, Muḥammad ʿAlī did not himself undertake the reform of land tenure in *Bilād al-Shām*. When he extended Khedival control over imperial *awqāf* he did not change their legal substance—the

lands and revenues attached to them. It would seem that he did not tinker with the legal status of *tīmār*s or *mālikāne*s either. He merely extended his control over certain lands without changing their legal nature, and lands producing insufficient income to interest him simply were left in the hands of their formal possessors. When Ottoman power was restored in 1840–1841, the Porte had only to reappoint its own officials to pick up on the general restructuring of the land tenure system it had begun in 1826 and which Muḥammad ʿAlī had interrupted in 1831.

Urban Property

Patterns of urban property holding and transfer established under the Ottomans continued during the Khedival period, with some notable changes in local practice that were authorized ultimately by the Porte. A number of particularly important documents which were recorded in the court registers give us a fuller understanding of the application of the *Sharīʿa* in relationship to property and to the functioning of Islamic institutions in Jerusalem.

The first document to consider concerned the *Awqāf al-Ḥaramayn al-Sharīfayn*.[67] Al-Sayyid ʿAbdullāh Wafā Afandī al-ʿAlamī, a *mutawallī* serving the group of *awqāf*, came to the court in order to represent himself, his uncle al-Sayyid al-Shaykh Yūsuf Afandī al-ʿAlamī, and his nephew al-Sayyid Muṣṭafā Afandī al-ʿAlamī, who were also *mutawallī*s and supervisors (*nāzir*s) of the *waqf* in Jerusalem. Also in court were al-Sayyid Ḥusayn al-Sharqā and his brother al-Sayyid Aḥmad al-Sharqā, who along with ʿAbdullāh Afandī testified concerning property in Jerusalem belonging to the *waqf*. This property consisted of a small, untended vegetable garden (*hākūra*) on the Citadel Street (*Khiṭṭ al-Qalʿa*) which contained olive trees and Indian fig trees (*ṣabr*—prickly pears) which had lost its value, and a house next to the garden that was ruined through neglect and heavy snow and rain, and which had thus lost its usefulness for the *waqf*. Therefore, ʿAbdullāh Afandī requested that the judge head an investigation of

[67] *LCRJ* 323, 33–4, end *Rajab* 1255/9 October 1839. Although it begins with the plural for *waqf*, this document then refers to a singular *waqf*. This lends credibility to the notion that various individual *awqāf* were administered as a large, administrative unit.

the property to ascertain that it was ruined so that "he could give permission to exchange it for cash (*li-ya'dhanu bi-badāli-hā* [*sic*] *b'il-darāhim wa'l-danānīr*) to him who wishes to buy the garden as real estate (*ʿaqārān ʿimārān*) to benefit the *waqf* or to repair the house."[68]

The judge responded to his request, appointing his clerk Maḥmūd al-Khālidī, his assistant ʿAbdullāh Aghā, and his bailiff Qūwaydis to help him investigate the claims made in the case. This group went to the property and the Chief Architect al-Ḥājj ʿUthmān Ṣadiq al-Nimmarī, as well as the witnesses Ḥusayn and Aḥmad al-Sharqā all verified that both the garden and the house were ruined. The chief architect and the investigators appraised the absolute value of the garden at one thousand *qurūsh*, and if it were exchanged, the *waqf* should be compensated double that—two thousand *qurūsh.*

The judge with these facts in hand gave permission to ʿAbdullāh Afandī and the two other *mutawallī*s to "exchange" the property with whomever wished to purchase it. When the conditions for granting permission for the exchange were fulfilled, an Armenian merchant named Wānīs, "the son of the *dhimmī* merchant Arwatīn" acting on his own behalf, gave ʿAbdullāh Afandī two thousand *qurūsh* in exchange for the garden in the court. ʿAbdullāh Afandī then accepted the payment in accordance with the *Sharīʿa* laws governing such a transaction, and a deed (*ʿaqd*) was issued documenting the exchange along with the validation of the judge. On that basis, all of the property became the absolute property (*ṣārat milkan ṭalaqan*) of Wānīs to use as he desired, and the money that had been paid in the exchange became *waqf*, to be used as the donor of the *waqf* had indicated in the document establishing the *waqf* for purposes in accordance with the *Sharīʿa*, or to repair the house next to the garden.

But then, after all of the above had been completed, the *Mutawallī* of the *Waqf* ʿAbdullāh Wafā Afandī, on his own behalf and on behalf of the two other *mutawallī*s, claimed that the exchange of money for the property was not valid, the exchange was not the fair value of the property, and in consideration of the *waqf* he wanted its return. The Armenian protested this, saying that the exchange was valid when permission had been granted and given for the exchange in the court, that the two thousand was double the value of garden or more, and that the claim made against him by the *mutawallī*s was untrue.

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[68] See Deguilhem-Schoem, "History of Waqf," 298–340.

Typical of Ottoman practice, the judge required evidence for this second claim and called back the chief architect, the two Sharqā brothers and the bailiff, and they testified in front of the judge and in the presence of the *mutawallī* that the two thousand *qurūsh* was more than double the value of the garden, and that now in that quarter there was much belonging to the *waqf* that was in ruins. The judge accepted their testimony and since the necessary evidence had been established in accordance with the *Sharīʿa*, the judge ruled that the transaction was valid when it was first permitted, and it was valid now, for the second time. He forbade the *mutawallī*s from making their claim, and the *mutawallī* then acknowledged he and his fellow *mutawallī*s would not be permitted to bring any further claims to the court regarding this matter. Furthermore, the judge stated that neither the initial permission to make the exchange nor the exchange itself had been invalidated, and that the second claim was forbidden in accordance with the *Sharīʿa*. The judge then gave permission to the merchant (Turkish: *hoja*) Wānīs to dispose of the property as his absolute property: that is, Wānīs was granted all of the rights of ownership, without having to encounter "any opposition or conflict in the exercise of those rights then currently given to those having the right of possession, whose outcome was in accordance with the *Sharīʿa*." Thus we can see that even property belonging to the *Awqāf al-Ḥaramayn al-Sharīfayn* could be sold to non-Muslims in accordance with Islamic law, provided that such property was neglected and not in use.

The second suit described in this case conforms to the pattern of the challenge clause described by James Reilly in his analysis of the deeds of lease he surveyed from the law court registers of Damascus.[69] He found that when "rental agreements are challenged by one or two persons . . . in all cases sampled these challenges were rejected by the judge." Reilly explained that the "purpose of this exercise is to strengthen the legality and validity of rental agreements, particularly when the lessors are waqf custodians, by rejecting allegations that the interests of the waqf are not well served by the agreement under consideration." He concluded that such agreed-upon rentals were never overturned.[70] However, unlike the deeds that Reilly reviewed,

[69] Reilly, 'Shariʿa Court Registers,' 155–69. Other aspects of this case, including the type of property involved, fit in well with the types described in this article.

[70] *Ibid.*, 161.

this case was a sale of *waqf* property, although it was termed an exchange—*istibdāl*. The trade was cash for property, and when that property was sold it became private property—*milk*. The buyer was instructed simply to treat it as he treated his other private property.[71]

Besides the inherent interest of this case, which clarifies the process by which real property at the disposal of a *waqf* could be 'sold' by the legal artifice of 'exchange' to become private property under the Ottoman interpretation of Islamic law, this case also touches on other important issues concerning the socioeconomic life of the city. First, it shows that the administration of the *Awqāf al-Ḥaramayn al-Sharīfayn* was conducted by a number of positions filled by various individuals. The *mutawallī*s and *nāẓir*s of the *awqāf* in Jerusalem mentioned in this case were not the only employees of the *awqāf*, either in the city or elsewhere in the province. Furthermore, even at this late date the *mullā qāḍī* still exercised authority over the administration of the *Awqāf al-Ḥaramayn al-Sharīfayn* in regard to important matters such as the alienation of property, as was standard practice in the Ottoman Empire.

Next, consider the term "*dhimmī*"—despite its well-known sense of derogation used to describe Christians and Jews living in the Ottoman Empire, the actual sense of the word is very important in this context. Under Islamic law, the word *dhimmī* is used to describe a Christian or Jew who was 'joined' to the Muslim community by accepting its 'protection.' A *dhimmī*, by virtue of the fact that he was not a member of the *umma*, had no obligation to serve in the military. The payment of the *jizya* assured the *dhimmī* of his right to live in the Ottoman Empire, although clearly not as an equal of the Muslims of the empire. A *dhimmī* nevertheless was a member of the *raʿāyā* who, as a resident of the Ottoman Empire, was obligated to pay taxes and comply with the laws of the empire. This is in distinct contrast to a Jew or Christian from outside of the Ottoman Empire, who, if residing there would become a '*musta'mīn*'—a foreigner who was promised protection by sultanic decree. Therefore, a *dhimmī* is identified in Ottoman law as a subject and member of the Ottoman Empire, in distinction to foreign-born Jews and Christians.

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[71] See also Deguilhem-Schoem, "History of Waqf"; Gabriel Baer, "Dismemberment of Awqaf," 299–319; and John Mandaville, 'Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire,' *International Journal of Middle East Studies* 10 (1979): 289–308.

During this period the descriptive title *fakhr*—which actually meant 'glory' or 'boast' was used along with the name of the individual's peer group, in Wānīs' case the Armenian community (*millet*), and was used to denote honor or respectability, and always referred to urban dwellers. Very frequently the term was used to describe Muslims, particularly the *'ulamā'* and the *ashrāf*. In this case it was used to underscore the honor of the Christian who was appearing in the court. The other title, *khūjja* (*khoja/hoja/khawaja*), which initially was used in the Ottoman Empire as an honorific title for a teacher, eventually had become a title for a Muslim or non-Muslim merchant to emphasize his respectability in the community. This brings us to the increasingly important issue of the relationship of non-Muslims and Westerners to the Muslim community during this period. Sticking to the subject of property, let us turn to the next case.

The Muslim Community of Jerusalem and its Relations with Jews and Christians

Of all the issues pertaining to Ottoman Jerusalem, it is the status of religious minorities that has drawn the most attention from Western observers. In this section, documents pertaining to the relations of these minorities with the Muslim establishment will be analyzed within the context set out in this study. These documents provide contemporary, indigenous materials that give us a new perspective from which to understand these relationships. It is clear that the very misunderstandings of the Europeans became part of the dynamic fueling the changing relationship of Muslims and non-Muslims in the years following the 1834 rebellion. Throughout this discussion, the changing status of the Muslim community itself under the Khedival regime must be borne in mind. That once-dominant community was itself retrenching, adapting itself to a new fiscal regime and a new political and military order. Ottoman and European diplomatic pressure upon Muḥammad ʿAlī continued until war would once again flare up in 1840. The years 1834–1839, then, must be understood as exceptional ones, as Muḥammad ʿAlī attempted to strengthen his position in Syria and as the residents of *Bilād al-Shām* attempted to find their places in the new order.

Following the rioting in the city of Jerusalem in 1834, two cases were brought to the Islamic Court concerning damages for the loss

and destruction of property. The first, dated *Jumādā I* 1250/9 September 1834, was heard even before the rebellion against Ibrāhīm Pasha had been finally suppressed. The document recorded in the *sijill* is a '*ṣulḥ*,' or an agreement mediated between the involved parties outside of the court, which, once heard and approved by the judge, attained the force of law in accordance with the *Sharīʿa*.[72] In this case, the plaintiffs were two Turkish officers—Ibrāhīm Aghā Qawwūṣ [*sic* possibly for Cavuş] ibn ʿAbd al-Raḥman Ṭūsṣīlī [*sic* for Fuṣṣilī, or perhaps armed with a musket] and Muḥammad Agha Qawwūṣ [possibly *sic* for Cavuş] bin Aḥmad al-Iḍirnlī (from the Turkish city of Edirne) who accused three Muslim residents (*ahālī*) of the village of Lifta, which was on the outskirts of Jerusalem, of being among the peasants who entered Jerusalem during its takeover. The three were accused of entering the officers' house and taking property valued at 1,508.59 (*sic*) *qurūsh*, the portion worth 855 belonging to Ibrāhīm and that worth 653 belonging to Muḥammad. The defendants had denied the accusation, and the dispute between the parties had continued until some mediators worked out an agreement between them. Witnesses were called to support the plaintiffs' charges, but were not altogether convincing. Therefore, a compromise was reached: Ibrāhīm was awarded 427 *qurūsh* and 1/2 *riba'*, and Muḥammad received 326.5 *qurūsh*. Upon making this agreement, the plaintiffs dropped their claim and their right to bring the matter to court for resolution. The defendants were cleared of any debts or further suits in accordance with the *Sharīʿa* upon payment of the award. The plaintiffs and defendants appeared together in court and the *ṣulḥ* ended all further contests and actions.

In contrast to this case, which led to some compensation and satisfaction to the aggrieved parties, who were after all members of the privileged *ʿaskarī* class, the second case ended differently. In this case, dated 15 *Rajab* 1250/17 November 1834, Iṣḥaq ibn Yaʿqūb al-Yahūdī, a Jew, accused al-Ḥājj ʿAlī al-Jāʿūnī, al-Sayyid ʿAbdullāh al-Jāʿūnī, and al-Sayyid ʿUthmān al-Jāʿūnī, three members of an important Jerusalem *ʿaskarī* family, of taking property from him, "when the peasants entered Jerusalem."[73] Iṣḥaq brought to the court a notebook listing the items stolen from his house, which he presented as

[72] *LCRJ* 319, 25.
[73] *LCRJ* 319, 48.

he made his accusation against the three. The Jāʿūnī brothers, asked about the charge, denied it. Witnesses "from among the Muslims and the Jews" testified that the accused had not taken anything listed in the notebook from the plaintiff. These witnesses were: Muḥammad Afandī Binbashi, a military officer; ʿAbdullāh Bashi Aghā al-Baghdādī Yuzbashi, another ranking officer; the Jewish community's leader in Jerusalem; the official translator for the Jewish community in Jerusalem; the son of the community's representative; "al-Khākhām Shelbūn"; and "other Jews." These witnesses all testified that the plaintiff, present in the court, had admitted that the three accused did not have any of the things listed in the notebook. The judge then asked Iṣḥaq for a statement, and he answered that he had no witness to testify that any of the three accused had taken his belongings from the peasants who had entered Jerusalem (and looted his property), so the judge then asked him to state if he had seen the defendants take any of his belongings. Iṣḥaq admitted he had not. So the judge made him acknowledge that he had no right to make a claim against the three, and that no further action could be brought against them.

This case, in which a single Jew accused three military officers, notable Jerusalemites all, of receiving stolen goods or actually stealing them themselves during the looting of the city, is remarkable. It is doubtful that Iṣḥaq would have brought the case to court unless he had some reason to believe that he could win the suit, despite the fact that he had no witnesses to corroborate his claims. The lack of evidence in itself under Islamic law would have been enough to dismiss the case. However, some big guns were brought out to refute his case: reputable witnesses from the military and from the Jewish community itself testified that the plaintiff had no case against the three Jāʿūnī brothers. The dispute was resolved in the defendants' favor, and the looting victim went home empty-handed. In both cases, there appears to have been no bias against the plaintiffs on the basis of being foreign or non-Muslim. The *Sharīʿa* and its rules of evidence provided an even-handed tool for the resolution of both matters.

The foregoing cases bespeak the careful negotiation necessary to preserve order in the Jerusalem of this time, especially in the face of such social cataclysms as looting. The arrival of Westerners and their participation in the life of Jerusalem added a new layer of complexity to the city's social makeup. Unsettled by the political struggle going on between Muḥammad ʿAlī and the Sultan, the Muslim residents (*ahālī*) of Jerusalem and their neighbors, as we have seen, had

lost their established prerogatives as a privileged, tax-exempt group. These Muslim residents of Jerusalem, *ʿulamāʾ* and *ashrāf*, now had to adapt themselves to the policies of Muḥammad ʿAlī's regime, policies which aimed at changing the fundamental structures of law and government in Syria. It was in this context that the Western arrival in the city must be understood.

One of the earliest issues relating to Europeans to arise during the Khedival period was the question of the right of *musta'mīn*s to purchase land in Jerusalem. On 12 May 1836 the chief judge had forbidden the American consul, a certain John M. Clayton (*Qilaydūn*) of Delaware, from purchasing land near David's Tomb for a cemetery.[74] However, when some Franciscans sought permission to enter David's Tomb, the Dajānī family, the Supervisor of the *Waqf*, submitted a petition to the Khedival government requesting directions.[75] An order from the *ḥikimdār* denied permission to any Christian to enter the Tomb, even though the Franciscans had once had customary rights there.[76] The reasoning in Muḥammad Sharīf's order does not allude to any *Sharīʿa*-related reasons for the denial. This refusal was probably due to the strategic importance of Mount Zion for Khedival defense, since, it will be recalled, Ibrāhīm Pasha was using the facilities there as his military headquarters.

On 8 August 1839 a document was issued by the court permitting the *mutasallim* of Jerusalem to allow the well-known Danish-born missionary Nicolayson to buy his house.[77] This application was based on the former practice which allowed *musta'mīn*s to purchase private property, according to deeds issued in the *Sharīʿa* courts. Therefore, Nicolayson's request to buy the house in which he was living was sent to the Khedival government for consideration, and permission was granted for the sale. This permission was granted in the *Sharīʿa* court for the purchase in accordance with the laws governing *musta'mīn*s in Jerusalem. Between 1836 and 1839 the application of laws regarding the purchase of land by foreigners in Jerusalem had changed. This may be the first time in local memory that land was sold in

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[74] *LCRJ*, 320, 82, 25 *Muḥarram* 1252. Also Rustum, *Uṣūl*, IV, no. 186, 30. On the history of American consuls in Jerusalem during this period, see Ruth Kark, *American Consuls in the Holy Land, 1832–1914* (Detroit: Wayne State University Press, 1994).

[75] Amnon Cohen, 'Expulsion,' 147–57.

[76] *LCRJ* 321, 234, beg. *Dhū-l-Ḥijja* 1254/15 February 1838.

[77] *LCRJ* 323, 33, 27 *Jumādā I* 1255. Gilbert, *Rebirth of a City*, 29–30.

Jerusalem to a foreigner, although elsewhere in the Ottoman Empire it had been possible to do so for a long time under the Capitulations.

Also, in 1839 Sir Moses Montefiore, the British Jewish philanthropist who toured the Holy Land seven times between 1827 and 1875, visited Ṣafad, a town with a large number of Jews. Thinking about ways to improve their lives, he wrote in his diary, "I shall apply to Mohhammad Ali for a grant of land for fifty years; some one or two hundred villages; giving him an increased rent of from ten to twenty percent, and paying the whole in money annually . . ." on the condition that "the land and the villages [are] to be free, during the whole term, from tax or rate either of Pasha or governor of the several districts; and liberty being accorded to dispose of the produce in any quarter of the globe." If he were to be successful, he intended on his return to England to "form a company for the cultivation of the land and the encouragement of our brethren in Europe to return to Palestine."[78]

Montefiore clearly believed that Muḥammad ʿAlī had the power to sell the tax-farms of Syria. Muḥammad ʿAlī demonstrated once again his adept political sensibility in his dealings with Montefiore. He controlled the territory, but by this time knew that he could not hold onto it for much longer, and once again deferred to Ottoman sovereignty and authority over such matters. He would be a facilitator, assisting a potential investor, but he was not responsible for the real estate in question. On 13 July 1839 Montefiore met with Muḥammad ʿAlī in Alexandria to discuss the possibility of renting land in Palestine. The Pasha replied that "he had no land there," but that "any contract" Sir Moses might make with the Muslims there would have "his approval" and "he would send it to Constantinople for confirmation." Montefiore, who understood Muḥammad ʿAlī to possess land in Palestine from information he had gathered while visiting the country, "continued to press the Pasha." Muḥammad ʿAlī assured Montefiore that, "if he could point out the parts belonging to him," Sir Moses "could have them."[79]

In his exchange with Montefiore, Muḥammad ʿAlī expressed his eagerness to see the land cultivated, trained laborers brought in for this purpose, and suitable agricultural technologies introduced. It was

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[78] Dr. Louis Loewe, ed., *Diaries of Sir Moses and Lady Montefiore* (1890; reprint, London: Jewish Historical Society, 1983), I:167.

[79] *Ibid.*, I:199.

not until Montefiore mentioned the last of his ideas that Muḥammad ʿAlī was swept up with his visitor's enthusiasm. When the Englishman "spoke of establishing joint stock banks with a capital of £1,000,000 sterling, with power to increase it, if necessary," Muḥammad ʿAlī's "eyes sparkled . . . he appeared delighted, and he assured [Montefiore] the bank should have his protection, and he should be happy to see it established."[80]

From this account, it is clear that Muḥammad ʿAlī was not willing to lease any of the land under Khedival control directly to the Englishman. He was willing, however, to authorize his approval of such an arrangement with the confirmation of the Porte. Thus, Muḥammad ʿAlī was in this matter willing to abide by the laws governing *musta'mīn*s in the Ottoman Empire.

The court records throw light upon the growing interest of foreigners in taking part in the economy of the city. A key to understanding this issue is an important document recorded on 19 April 1838.[81] It relates to an order issued on 28 May 1837 by the *Ḥikimdār* to the *Mutasallim* of Jerusalem, Muṣṭafā Aghā al-Saʿīd. The *Majlis al-Shūrā* of Jerusalem had written to the *mutasallim* regarding a letter addressed to them by Baḥrī Bey, the treasurer of the Khedival government, concerning a petition of complaint (*jirnāl*) that the *Majlis* had sent to him.[82] This petition was written in response to a request submitted to the *Majlis* by the representative of the community of Ashkenazi Jews in Jerusalem (*wakīl ṭā'ifat al-skināj b'il-quds al-sharīf*).[83] The *Majlis* had sent its petition to Baḥrī Bey with the intention of rejecting the Ashkenazis' request, as *musta'mīn*s,

> to purchase private property and arable land, to pursue agricultural activities, to buy and sell, to trade sheep and cows, to produce soap and build buildings for oil presses so long as they would pay the appropriate *mīrī* taxes, as did the *raʿāyā*.

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[80] Loewe, *loc. cit.*

[81] *LCRJ* 321, 96, 24 *Muḥarram* 1254. Also found in Rustum, *Uṣūl*, III, no. 315, 65 and al-ʿAref, *Mufaṣṣal*, 291. The latter is an inaccurate copy. Rustum's is far closer to the original, since he merely corrected improper grammar. The Ashkenazis unfortunately were not named in the document.

[82] Jacob Landau in a personal communication pointed out the specific meaning of the term '*jirnāl*' in Ottoman usage.

[83] See a discussion of the term *ṭā'ifa* in the section entitled "Ta'ifa or Millet?" in Masters, *Christians and Jews*, 61–5.

In this context the use of the word *raʿāyā* specifically concerns that group that paid the *mīrī* taxes, both Muslims and *dhimmī*s.

This request from the Ashenazis represented a problem that was similar to an issue that had arisen in 1832. In that case, dated 24 August 1832, permission was granted to "Senator" Jasper Chasseaud (*sanatwīr Shāṣūn qunsulūṣ dawlat al-amīrkān*), the American consul, to appoint "Senator" David Darmon (*sanatwīr Dāwīd Dārmūn*), a Jew of French nationality, as his agent in Jerusalem.[84] Chasseaud had contacted the Khedival government to request that Darmon be given the right to serve as his consul by fulfilling the duties he (Darmon) was instructed to perform by order of the American government. The document which certified this permission instructed the *mullā qāḍī*, *muftī*, *qā'immaqām naqīb al-ashrāf*, and the *mutasallim* to allow him to conduct his business "as the rest of our beloveds like him (i.e. other consuls in the empire), as well as his relatives." The officials were to protect and guard him and those seeking shelter with him, and to help him perform the rest of his duties according to his 'right' (*ḥaqq*) as consul. Furthermore, they were instructed to make sure that his requests and pursuit of issues relating to his group (*ṭā'ifa*)—witnesses, visitors, and residents in Jerusalem—were unhindered. In these two cases, the people involved were categorized as 'groups' of non-Ottoman residents.

In the case concerning the Ashkenazis, there was understandable confusion regarding the question, as is clear from the continuation of the *Majlis*' petition to the *mutasallim*.[85] The *Majlis* wrote that "we understand the directions" given in the answer to its questions by Baḥrī Bey, but that the response was inadequate since

> the lands of this region are *mīrī* and *waqf*, and their request in this regard does not agree with the *Sharīʿa* and goes beyond the practice of buying and selling and in trading what they bring with them from their countries for all manner of trade and regulates [the commercial practices of] their co-religionists, the *dhimmī*s, in the market. These agents (*ʿummāl*) undertake these commercial practices now, and no one prevents them in this.

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[84] *LCRJ* 317, 109, 26 *Rabīʿ I* 1248. See Kark, *American Consuls in the Holy Land*, 81. Caeser Farah mentioned "James" Chasseaud in his article "Protestantism and Politics: The Nineteenth Century Dimension in Syria," in *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation*, ed. David Kushner, (Leiden: E. J. Brill, 1986), 320–40, especially 322. Also Rustum, *Uṣūl*. No further references to David Darmon have been located.

[85] *LCRJ* 321, 96.

The *Majlis*' response to Baḥrī Bey's order was summarized and sent to another unidentified Khedival official, and was then responded to from Egypt. The response was to reaffirm the original order, even if the rights that the Ashkenazis had requested went against the *Sharīʿa*. They were to be able to enter into trade along with their co-religionists despite the legal distinction in their status in the Ottoman Empire. The order then informed the members of the *Majlis* that there was to be no further opposition to the Khedival order which permitted the Ashkenazi *musta'mīn*s, along with the *dhimmī*s, to have all of commercial rights they had requested, including the right to purchase private property and arable land and "to pursue agricultural activities, to buy and sell, to trade sheep and cows, [and] to produce soap and build buildings for oil presses." This case illustrates the resistance to opening the society and economy to outsiders even by the members of the Khedival *Majlis al-Shūrā* itself, and the strong will of the Khedival government to have its decisions implemented nevertheless. Muslim concern about the threat of competition is articulated in this expression of concern about the confusion regarding the rights of the subjects of the Ottoman Empire and those of the *musta'mīn*.

The *mutasallim* of Jerusalem at the time was Aḥmad Aghā al-Dizdār al-ʿAsalī, who had been one of the leaders of the Tax Rebellion of 1826. Aḥmad Aghā was to be remembered because of his friendship with Sir Moses Montefiore.[86] It was Aḥmad Aghā who owned the land "adjoining the High road from Jerusalem to Hebron within a few minutes' walk from the Jaffa and Zion gates" which Montefiore bought in 1839 for the first Jewish settlement outside of the walls of Jerusalem.[87] This was probably the property that the *ṭā'ifat al-skināj b'il-quds al-sharīf* had gotten permission to purchase in the case described above. Construction of the buildings called (in Hebrew) Mishkenot Sha'ananim in this suburb of Jerusalem, now known as Yemin Moshe, began in 1860.[88] The laws governing the Nicolayson

[86] Montefiore played an important role as a mediator with Muḥammad ʿAlī during the blood libel crisis that arose in Damascus following the murder of Padre Tuma. This affair, which drew the attention of the Van Buren administration as well as the English and which fueled interest in the difficult position of the Jewish communities of Syria has been well documented, but is beyond the bounds of this study. Rustum's *Uṣūl*, V, contains many documents concerning this incident.

[87] *Ibid.*, II:51.

[88] Zev Vilnay, *Israel Guide*, 24th ed. (Jerusalem: Zev Vilnay, 1985), 93.

transaction would have been similar to the laws that governed Montefiore's purchases, although Nicolayson was a resident and Montefiore acted through a local agent on behalf of Ashkenazi foreigners living in Jerusalem. Thus, the sale of land or property to foreigners, which had been resisted in Jerusalem as late as 1836 on the basis of the *Sharīʿa*, was permitted in accordance with Ottoman law by 1839.

Another example of the interaction between the Muslim community of Jerusalem and the Khedival government is a fascinating and unresolved case involving the Jewish community. On 11 July 1833, in the period before the 1834 rebellion, a group of Khedival soldiers, along with a servant of the *Al-Aqṣā* Mosque, escorted a Jewish youth, aged 15, to the *Sharīʿa* court.[89] They explained that some workers had found him in the draperies of the windows in the mosque. The *mutasallim* decided that the court should consider the case, and called for an investigation to be conducted by himself and a group of Muslims to ascertain what the "scoundrel," who is not named in the document, did. The investigators found that the youth had broken most of the stained glass in a large window above the *miḥrāb*, as well as damaging the tops of some of the columns above the *miḥrāb*, which were found crushed and broken. They also found three broken windows to the right of the *miḥrāb* above the school door. The stained glass in question "had been fashioned in an adroit way out of colored gypsum in a strange and wonderful form long ago; this method is no longer used in this city." They also found that the youth had come from the *Maghāriba* quarter through a garden known as the *Khatūniya* and from there through the school known as *Dār al-Aqṣā*, which was attached to the *miḥrāb*.

This vandalism had caused chaos (*balbala*) and the document records that "it seemed proper to turn the case over to the highest authority because such a thing had never before been encountered." Apparently quite a crowd had gathered, and, according to the document, "[a]ll of the people of Islam grieved over this, and everyone lamented the contempt that was shown for *Al-Aqṣā* Mosque whose virtues cannot be counted." The mosque "had to be restored, and the scoundrel detained." The *mutasallim* would detain him and keep the peace until the chief judge determined the correct course of action.

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[89] *LCRJ* 317, 123, 23 *Ṣafar* 1249.

The next morning another Jewish youth was found inside the mosque, and he too was arrested. The *mutasallim* asked what to do about this and the *mullā qāḍī* answered that Istanbul had to be contacted since this was a strange occurrence, because the Jews did not "usually enter the *Ḥaram*" (because of Rabbinical law concerning the holiness of the site and the danger that a Jew might inadvertently step upon the Holy of Holies, a law with the Muslim authorities were familiar) and because "they lived far from the place." Therefore, the chief judge decided, the case was to be judged at the highest level. Unfortunately, neither the court registers nor other contemporary records reveal the outcome of these cases. However, it appears that the Khedival authorities, working with the chief judge of the city, prevented any riots and maintained public order in the city, since there is no mention of an outbreak of violence during this incident in contemporary accounts of this period.

In addition to revealing some interesting architectural details, and their appreciation by the Muslims of Jerusalem, this document also gives us a glimpse of the significance of *Al-Aqṣā* Mosque to the Muslims in Jerusalem. The Khedival authorities in Jerusalem clearly recognized the importance of this case for the Ottoman authorities, and referred the case to them, rather than to Ibrāhīm Pasha or the *ḥikimdār*. It was only on this religiously fraught level that the Khedival government deferred to the authority of the Ottoman state.

The rich documentary evidence available in the *sijill* of the Law Court of Jerusalem shows clearly that the *Sharīʿa* was not the sole concern of the court under Ottoman and Khedival rule. The *Maḥkamat al-Sharīʿa* during this period became an instrument of Khedival policy. It became the place of record, where Khedival policies of all types were announced and registered, where *Sharīʿa* cases were heard by the *qāḍī*, where petitions and requests to the *Majlis al-Shūrā* were recorded, and where cases of various types were heard and decided. It was here that the consequences of policies could be felt, and where men and women of all backgrounds came to find redress for grievances and to register agreements. And it was in the *Maḥkama* that the full force of the meaning of the Khedival occupation could be understood.

The *sijillāt* provide evidence of the meaning of the transformation of the land tenure system before the *Tanzimat*, and the means by which the legal disposition of land could be altered. The development of a separate corpus of law, and a distinct legal institution to

implement it, both designed specifically to overturn Ottoman control in Syria is what distinguishes Muḥammad ʿAlī from the other rebellious *wālī*s of the Ottoman Empire. This was the time when new actors could attain political power, as the relations of the *afandiyāt* and the *umarā'* with the countryside were altered by Khedival policies and actions. The increasing political power of merchants and the dimunition of the influence of the traditional elites would be a process that would continue under the Ottomans following their restoration.

CHAPTER SEVEN

EPILOGUE: THE SULTAN AND THE KHEDIVE

In 1838, Muḥammad ʿAlī officially refused to send revenues to the Porte.[1] Hostilities between Muḥammad ʿAlī and the Sultan ultimately were renewed in April 1839 when Maḥmūd II ordered his army to cross the Euphrates, challenging the Khedive over his position in Syria. In two months Ibrāhīm Pasha emerged the victor after a furious battle at Nezib. Then, suddenly, before he could hear news of his defeat, Sultan Maḥmūd II died on 1 July 1839.

The Khedive's long rivalry with the Porte, in astonishingly quick order, began its final denouement. The *Qabṭān Pashā* Aḥmad, Admiral of the Ottoman Navy, turned over his entire fleet to Muḥammad ʿAlī at Alexandria. Muḥammad ʿAlī continued to insist upon the dismissal of his old nemesis, Khusrev Pasha, and seemed to be readying himself for an attack upon the Porte with the help of France. Alarmed, Russia, Prussia, and Austria, in their effort to preserve the territorial integrity of the Ottoman Empire, allowed England to help the Porte to remove Muḥammad ʿAlī. This they did without the knowledge of France. The European coalition signed the Convention of London on 12 July 1840, guaranteeing the protection of the new Sultan against the Khedive, and setting the terms to persuade him to withdraw from *Bilād al-Shām*. In a separate article, it was agreed that if Muḥammad ʿAlī ended his aggression against the Porte within ten days, his progeny would be allowed to succeed him as rulers of Egypt, thereby establishing his dynasty, and he himself would be allowed to govern southern Syria, including Acre, for the rest of his life. If, however, after ten days he refused to yield, he would lose the right to govern Syria and Acre, and if, after another ten days he still would not yield, the entire offer would be withdrawn and the signatories would reconsider their position.

Muḥammad ʿAlī, encouraged by the French, remained defiant. When the combined navies of Great Britain, Austria, and Turkey

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[1] Anderson, *Eastern Question*; Spyridon, *Annals of Palestine*, 15 and Kinross, *Ottoman Centuries*, 468. This last must be used with considerable caution.

arrived off the coast of Beirut on 11 August, a general rebellion broke out in Syria. An observer wrote, ". . . in the hour of conflict Syria was lost to Mehemet Ali not more by the arms of the Sultan and his allies, than by a revolt which made the whole land rise as a huge wave throwing off an incubus."[2]

On 3 October Beirut was lost, "and Ibrāhīm, cut off amidst a hostile people, began a hurried retreat southwards."[3] His retreat was a miserable one.[4] When the *serʿasker* arrived in Gaza, which had just been reoccupied by Ottoman troops, his arrival was quite different from his father's triumphant arrival in Acre just five years before. Sir Charles Napier, commander of the British naval forces off the coast of Syria and Egypt, wrote:

> His reception at Gaza was remarkable: the people flocked from curiosity to see him, but his entry formed a singular contrast to that of the Turkish troops into the different towns and villages which they had occupied for the first time. In the latter case, the reception was enthusiastic, the men lining the roads and saluting with all the varieties of an Eastern welcome, and the women crowding the housetops and making with their tongues the extraordinary noise which is meant to denote pleasure, but with Ibrahim Pasha there was a look of deep-rooted dislike on the faces of the people, which even their dread of him they could not conceal. He, contrary to Eastern fashion, saluted no one,—not one saluted him; certainly, as an inhabitant afterwards told me, "not a tongue or a heart blessed him."[5]

The European coalition captured Acre on 2 November 1840, and Muḥammad ʿAlī called for the general evacuation of Syria. The English Admiral Napier sailed from Acre to Alexandria and threatened Muḥammad ʿAlī with bombardment if he did not accept his terms. After realizing that no help would come from France, Muḥammad ʿAlī agreed to sign the Convention on 25 November 1840 which stipulated that the signatory European powers would ensure that the Porte would confirm him and his heirs in the government of Egypt. In return, he agreed to relinquish all claims to Syria and to restore the Ottoman fleet to the Sultan.

The matter was settled in 1841 when at long last Muḥammad ʿAlī and his family were invested by the Porte with the hereditary

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[2] J. D. Paxton, *Letters on Palestine* (London: Charles Tilt, 1839), II:121–2.
[3] Spyridon, *Annals of Palestine*, 15.
[4] *Ibid.*, 132–7.
[5] Sir Charles Napier, *The War in Syria* (London: John W. Parker, 1842), II:167–8.

right to govern Egypt according to the principle of primogeniture. In return, the Khedive agreed to reduce his forces to eighteen thousand soldiers, whose officers would be appointed by the Sultan. Furthermore, the building of an Egyptian navy would be allowed only with the approval of the Sultan. Finally, the Khedive would pay an annual sum of four hundred thousand *qurūsh*, and be officially recognized with only the rank of *wālī*.[6]

Muḥammad ʿAlī's rise from the ranks of the provincial *aʿyān* and his ultimate success in winning dynastic privileges from the Porte were revolutionary in Ottoman history. Through his determination to apply his military and political skills to become an undeniable force within the empire, Muḥammad ʿAlī broke Ottoman tradition and won the recognition that he had craved so long. But the victory was bittersweet. His old antagonist, Maḥmūd II, was dead. The people of *Bilād al-Shām* had rejected his rule with an animosity so deep that he did not protest his surrender of that valuable territory. He was an old man, and, with the battle over, the fight had gone out of him. After becoming increasingly enfeebled he passed away in 1848. Ibrāhīm Pasha, proving to be a better soldier than ruler governed for only a brief time, passing the government to his nephew ʿAbbas in the very year of his father's death.

The Question of Modernity and Muḥammad ʿAlī: The Periodization of Middle Eastern History

Dodwell called Muḥammad ʿAlī "the founder of Modern Egypt" and ever since this period has been viewed by many as the beginning of the modern period in Middle Eastern history. Academically, the word 'modern' pertains to the historical period beginning in the Age of Discovery. Nevertheless, the term is often used by nonhistorians to convey the idea of progress, in the form of developments characteristic of recent times: improved technology, efficiency, management; better communications, education, transportation, security, health care; and broader political rights and participation. This leads to confusion and distortion, particularly in contexts such as the 1830s.

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[6] Spyridon, *Annals of Palestine*, 15.

It is preferable to stop using the term 'modern' for this period at all in order to emphasize the continuity of the Ottoman period and to distinguish the 'late' modern period from contemporary history. However, it is undeniable that Muḥammad ʿAli introduced a new kind of military regime in the Arab world, one that mobilized an entire society for war and conquest. His absolute power, manipulation of Islamic Law, and the creation of a political identity for his government foreshadowed the strategies of one-party Arab regimes in the twentieth century. In this, and in his transformation of the military and the economy, his rule was distinctively 'modern'—with all the injustice that type of rule entails.

The Arab provinces would remain under Ottoman hegemony until 1917, and it was under that hegemony that change, driven both by internal and external forces, occurred. It is important to link the Khedival irruption to events which began in 1812 as Maḥmūd II picked up his predecessor's attempts to reform the military, and to see those reforms in relation to his wars with European rivals. The evidence in the court archives shows these strategies in action, as well as the continuity and transformation of Islamic institutions in Jerusalem and its hinterlands.

The Repercussions of Conflict

In this study, we have traced how Muḥammad ʿAlī, in his conflict with Sultan Maḥmūd II, invaded and occupied *Bilād al-Shām*, and in so doing altered the fundamental relations of power in Jerusalem and its environs. This analysis has been based upon the idea that the conflict between Muḥammad ʿAlī and the Sultan epitomized trends in the political administration of the Ottoman provinces that had been developing for over two centuries. The increasing autonomy of the office of *wālī*, built upon the emergence of local militias paid for by the increasing revenues under the direct control of the governors-general, combined with the emergence of the provincial notables, the *aʿyān*, as holders of the office of governor-general, resulted in the decentralization of power throughout the Ottoman provinces. Muḥammad ʿAlī, the greatest of these provincial *aʿyān*, succeeded in creating a new kind of government, a government that he chose to name 'Khedival.' Although it would be many years before the

Ottomans would recognize his dynasty by calling the leaders of Egypt 'Khedive,' Muḥammad 'Alī gained the authority of an autonomous government beneath the Ottoman mantle.

While Muḥammad 'Alī did not change the legal disposition of land in Syria, his regime did overturn the political order of Ottoman administration in the southernmost parts of *Bilād al-Shām*. The Khedival regime usurped the authority of Ottoman officials to administer *mālikāne* lands along the Mediterranean in geographic Palestine—the *sanjaq*s of Gaza, Ramla, and Lydda. In the mountainous regions of the *sanjaq*s of Jerusalem, Nablus and Hebron, his regime put an end to the local domination of the *umarā' shaykh*s. Ibrāhīm Pasha was able to impose Khedival policies ultimately only after crushing the insurgency of Qāsim al-Aḥmad and co-opting Ḥusayn 'Abd al-Ḥādī into the regime as *mudīr*, or 'governor,' of the new province constituted by the former *sanjaq*s of Sidon, Jaffa, Gaza, Ramla, Lydda, Acre, Jerusalem, Hebron, and Nablus. He was unable to pacify the *sanjaq* of Hebron or the Transjordanian region, where the bedouin *shaykh*s continued to elude him.

The decrees and policies enacted by the Khedival regime changed the political position of the *afandiyāt* of Jerusalem as administrators of imperial *awqāf* who controlled significant agricultural areas throughout the southern districts of *Bilād al-Shām*. Khedival control over the city of Jerusalem, which came only following the Rebellion of 1834, permitted Muḥammad 'Alī to take over the administration of the important *awqāf* associated with the *Ḥaramayn*. The *mīrī* and *jizya* revenues dedicated to the maintenance of *al-Aqṣā*, *al-Ḥaram al-Sharīf*, *Khaṣṣekī Sulṭān*, as well as of the *Waqf* of *Sayyidnā Khalīl* and to the *Ḥajj* caravan from Damascus to the Hijaz all came under the control of his administration. How he disbursed this revenue is unknown.

The Khedival regime allowed the Ottoman legal institution of the *Maḥkama* to continue to operate, although it is clear from the evidence that its authority was curtailed with the decrees administered through the *Dīwān al-Shūrā* in Damascus and in Jerusalem, the *Majlis al-Shūrā*. These decrees overshadowed the Ottoman *Qānūn* and the *Sharī'a* with the novel rulings of the Khedival *Siyāsa*. This differed substantially from previous times, when a governor-general may have imposed illegal taxes and administered the *Siyāsa* in ways contrary to the Ottoman *Qānūn*, but did not enact a corpus of laws to govern a new political entity of his own design. The Khedival government in Egypt and Syria actually legislated a new code of law "*Aḥkām al-*

Siyāsa" replacing Ottoman law—an unprecedented innovation in Ottoman history. Muḥammad ʿAlī implemented his policies until the Ottomans, with the assistance of the English, were finally able to oust him.

It is possible to trace the impact of these basic changes in the legal and sociopolitical order of Jerusalem into the *Tanzimat* period and beyond.

The Ottoman Restoration in Jerusalem and the Tanzimat

With the Ottoman restoration of power in 1840, the Porte proceeded with the reforms begun under the late Sultan Maḥmūd II. Some of the Sultan's and Khedive's reforms were similar, particularly with regard to the military. Muḥammad ʿAlī's *de facto* centralization of imperial *awqāf* administration paralleled Maḥmūd II's own intentions, and, for that reason, the Porte did not restore the *afandiyāt* to their former status. Indeed, with the proclamation of the Gülhane Rescript in 1839, the Porte showed its determination to reform the status of all social classes in the empire.

Maḥmūd II's conflict with Muḥammad ʿAlī was one of the factors which led to the *Tanzimat* reforms. Certainly the situation in the Balkans had a significant impact on Ottoman policies of this era. Nevertheless, the Sultan did not view Muḥammad ʿAlī as a mere distraction: he perceived that the Khedive was a political and military threat to the very existence of the Ottoman state. Butrus Abu-Manneh has argued persuasively that to see the Gülhane Rescript as an attempt to "wheedle" aid out of Britain and to "Westernize" the Ottoman Empire reflects a European perspective that obfuscates the Ottoman imperial context.[7] In his work, Abu-Manneh raises four issues with this interpretation: whether to ascribe the Rescript to Rashīd Pasha or to the young Sultan ʿAbd al-Majīd; whether the Rescript was aimed at Westernization or whether it was rooted in Islamic political and legal theory; whether the Rescript aimed at garnering Western support against Muḥammad ʿAlī or whether it was

[7] Butrus Abu-Manneh, "A New Look at the Gülhane Rescript," (paper presented at the Sixth International Conference of Economic and Social History of the Ottoman Empire and Turkey, Aix-en-Provence, France, July 1992).

an act of genuine reform; and whether the Rescript was proclaimed at that particular time in order to strengthen the position of the Sultan vis-à-vis the European coalition or the Ottoman populace. Abu-Manneh turned to the language of the Rescript in order to find his answers, arriving at two important conclusions. The first is that the references to the *Sharīʿa* were not mere "lip service," but an authentic affirmation of the principles of Islamic law. The second is that ". . . the Rescript was a break away from the policies and practices of Sultan Maḥmūd II and an attempt to bring about a moral and legal rejuvenation of the Ottoman state, and to unite the Ottoman public, Muslims and non-Muslims alike behind the Sultan and the Porte [*sic*]." Abu-Manneh is absolutely right on the first point: the Rescript is a document firmly founded in the Ottoman legal tradition. However, it is clear that Muḥammad ʿAlī's reforms in Egypt and Syria strongly influenced the thinking of both Sultan Maḥmūd II and his Foreign Minister Rashīd Pasha about the new conditions that were taking shape throughout the empire.

Muḥammad ʿAlī and Maḥmūd II had been locked in a long and personal political battle, a battle that pitted new provincial forces in the shape of the insurgent *aʿyān*, a class personified by Muḥammad ʿAlī, against the classical Ottoman *ʿaskarī* ruling establishment. The political discourse of that battle was linked to the banner of 'reform' raised by Muḥammad ʿAlī as he positioned himself in opposition to the Sultan. Maḥmūd II and the Porte sought to counter the political rhetoric of Muḥammad ʿAlī with the language of 'authentic' legal reform in the empire. Maḥmūd II died before he could see the battle through. Sultan ʿAbd al-Majīd, with the continuing help of Rashīd Pasha, found a way to solve both the political conflict between the empire and Muḥammad ʿAlī, and the pressing need for a political statement of imperial reform. The first was to grant Muḥammad ʿAlī the right to dynastic rule over the Ottoman province of Egypt in return for his withdrawal from Syria. The second was to issue the Gülhane Rescript to demonstrate the Porte's continuing efforts to reform the legal institutions of the empire.

The Rescript states that the *Qurʾān* and the *Sharīʿa* "were always perfectly observed." However, "in the last one hundred and fifty years, because of a succession of difficulties and diverse causes," the *Sharīʿa* "was not obeyed nor were the beneficent regulations followed; consequently, the former strength and prosperity have changed into weakness and poverty. It is evident that countries not governed by

the laws of the [*Sharīʿa*] cannot survive."[8] Clearly the elite governing the Ottoman Empire understood their empire as an Islamic state.

The Rescript then listed three fundamental reforms: guarantees promising all Ottoman subjects perfect security for life, honor and property; a regular system of assessing taxes; and an equally regular system for the conscription of requisite troops and the duration of their service. As we have seen, these reforms were all directly related to the policies of Muḥammad ʿAlī in Syria, and to the rebellions in Jerusalem and throughout Syria in 1834.[9] In a broader context, what has been characterized by Inalcik as the "decentralization" of the Ottoman Empire and the rise of the provincial political leaders—the *aʿyān*—outside of the imperial ruling establishment, is the structural context of all aspects of government in the Arab provinces of the Ottoman Empire, and in the Balkan territories as well. The role of Muḥammad ʿAlī in stimulating these reforms should not be exaggerated: nationalist unrest in the Balkans was another very important factor. Neither should his role be underestimated.

Muḥammad ʿAlī was ultimately the most successful member of the *aʿyān* class in Ottoman history because he broke through the 'glass ceiling' into the officially recognized ranks of the imperial ruling class. From the Porte, he won the right for his descendants to rule Egypt. This political aim was the reason for his strategic policies that included the industrialization, commercialization, and militarization of the Egyptian economy. His invasion and occupation of Syria were a part of that strategy: more than any military or economic objective, this was a direct challenge to the Porte to contend with his political demand. In the process, Muḥammad ʿAlī encountered many difficulties: his militarization of the Egyptian economy created demands for economic resources, revenues, and conscripts, but these demands did not constitute the primary impetus for his invasion of Syria.

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[8] J. C. Hurewitz, ed. and trans., *The Middle East and North Africa in World Politics: A Documentary Record*, 2d rev. ed. (New Haven: Yale University Press, 1977), 269–70.

[9] It is clear from the cumulative evidence in Egypt that the policies pursued by Muḥammad ʿAlī there were just as antithetical to Ottoman legal traditions as they were in Syria. Despite differences in terminology between the two provinces, it must be argued that the same phenomena described in this volume concerning Jerusalem and *Bilād al-Shām* were also characteristic of Egypt. Fred H. Lawson's study demonstrates the great need for recasting the Muḥammad ʿAlī period in terms of its contextual relationship with the Ottoman Empire. See Lawson, *Social Origins*.

Without grasping the nature of his conflict with the Porte it is impossible to understand the causes for his actions, for the initial acceptance of his rule in Syria, and for the rebellions that soon broke out against his regime. The nature of his government—*mulk*—the pure power state which Ibn Khaldun condemned—exemplified the lawlessness of rule by decree that was abhorrent to the Ottoman political-legal ruling establishment. The Gülhane Rescript represents an Ottoman response to the illegal nature and policies of Muḥammad ʿAlī's regime.

Thus, the Rescript addressed issues specifically raised by Muḥammad ʿAlī. The first two were monopolization and taxation. The Rescript expressed satisfaction that the state no longer allowed monopolies and then decried tax-farming, because

> This amounts to handing over the financial and political affairs of a country to the whims of an ordinary man and perhaps to the grasp of force and oppression, for if the tax-farmer is not of good character he will be interested only in his own profit and will behave oppressively.

The establishment of a fiscal policy that would assess taxes, "on every subject of the Empire . . . according to his fortune and his means, and . . . he should be saved . . . from [any] further exaction." The Rescript also called for special laws which would fix and limit the expenses of the Ottoman land and sea forces.[10]

The third issue was conscription. The Rescript called for limited military service of five to six years' duration, and for limiting the number of conscripts taken from any single place. Unlike Ibrāhīm Pasha, who had blamed the depopulation of Syria upon rural dower customs, the Porte noted that previous conscription policies had "been throwing agriculture and trade into harmful disarray. Moreover, those who are recruited to lifetime military service suffer despair and contribute to the depopulation of the country."

Next, the Rescript dealt directly with the need for reform of the legal system and profession. Capital punishment was to be announced publicly at a formal hearing, and summary executions were forbidden. The Rescript called for the respect of persons and property, and stated that punishment for the crimes of the fathers was no longer to be meted out to the sons. Muslims and non-Muslims were

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[10] Hurewitz, *Middle East and North Africa*, 270–1.

to enjoy the same concessions as subjects of the Sultan. This was, as we have seen, a revolutionary political concept. As time went on, the communal identities of the Ottoman subjects overshadowed the political and social consequences of the *Tanzimat* in Syria. Ottomanism simply did not appeal to them at a time when European interests offered new opportunities and new ideas about identity and government. Finally, the members of the *ʿulamāʾ* would now be held accountable for their behavior, without respect to rank, position, or influence, following the due process of law, and a penal code was to be compiled to that effect. To further strengthen and rationalize the bureaucracy, the *ʿulamāʾ* were to receive a regular and adequate salary and all traffic in favoritism and bribery, "which is one of the principal causes of the decay of the empire," would be outlawed.

In this section of the Rescript, the Porte's attitude toward the *ʿulamāʾ* is clear. Both Muḥammad ʿAlī and the Porte acted to assert state control over the judicial establishment in order to assure more efficient administration of religious endowments. Maḥmūd II's own efforts at reforming the administration of *awqāf* throughout the empire had been interrupted by Muḥammad ʿAlī's invasion of Syria. With that conflict resolved, the Porte could pursue Maḥmūd II's aims, which ironically had been facilitated by Muḥammad ʿAlī's policies in Syria. However, the Porte was also trying to rationalize the judiciary in order to enable it to uphold justice, recognizing that the *ʿulamāʾ* required better salaries if they were to be prevented from accepting bribes. This period saw the beginning of the development of the modern legal profession in the region.

The career of Ṭāhir Afandī al-Ḥusaynī, the *Muftī* of Jerusalem, is instructive. Initially he served as a mediator of political conflict, as in the Tax Rebellion of 1826. During the Rebellion of 1834, he joined forces with the *umarāʾ* against the Khedival regime and was exiled to Egypt. He was then returned to Jerusalem, where he served on the Consultative Council, carrying out Khedival policies but also representing local interests. This member of the *afandiyāt* had to accommodate himself to changing conditions in order to maintain his standing as a mediator between the center and the periphery, between the state and the city, between the governor and the community. It was no longer possible simply to hold the traditional office of *muftī*, dispensing legal opinion and support, and mediating between traditional political rivals. He had to learn how to operate as a bureaucrat in the newly centralized state.

The restoration of Ottoman rule over the city took place within the context of this change in political and legal culture throughout the empire. The *Tanzimat* period itself is beyond the scope of this study, and only aspects of the Ottoman restoration pertaining to the main arguments of this study will be discussed here.[11] The occupation of Jerusalem forced the Ottomans to reexamine the importance of the Holy City in both its Islamic and international contexts. Following the Egyptian withdrawal, the Ottomans made Jerusalem into an independent province, called the *mutaṣarriflik* of Jerusalem.[12] The *sanjaq*s of Jerusalem, Gaza, Jaffa, Lydda, Ramla, Hebron, and Nablus were joined into a large district with the Holy City as the capital.[13] Jerusalem was placed under the authority of the Province of Sidon, and emerged as the predominant city of southwestern Syria—overshadowing Acre and Jaffa, as well as Nablus and Gaza. Reflecting the Porte's central concern for control over the region's revenues, in 1841 the new Ottoman Governor of Jerusalem, Muḥammad Ṭayyār Pasha, was named the *mutaṣarrif*, a title that conveyed the important fiscal aspect of the new office.[14] He and his successors were drawn from "the new class of senior bureaucrats and officers that started to dominate the Ottoman lands in the Tanzimat period."[15] The Ottomans based their fifth army corps in Syria, and stationed better equipped regular forces in Jerusalem and the other large towns of the *mutaṣarriflik*.[16]

Jerusalem's elevation to an independent province reflected her international importance in the diplomacy of Europe. With the opening of European consulates in the city, the advance of the policies of "protection" for the *dhimmī* population of the empire by the Great Powers, and the increasing commercial activity in the region all propelled the Porte into taking a greater interest in Jerusalem. The heightened political status of the city, however, was overshadowed by continuing violence that broke out as the rival rural families struggled to establish political prominence in the vacuum created by Ibrāhīm Pasha's withdrawal.

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[11] On Jerusalem in the *Tanzimat* period, see Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 1–44; Divine, *Politics and Society*; Kimmerling and Migdal, *Making of a People*; and Gerber, *Ottoman Rule in Jerusalem*.

[12] Gerber, *Ottoman Rule in Jerusalem*, 6–9, 14–5, 96–121 and Ma'oz, *Ottoman Reform*.

[13] Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 8–9.

[14] *LCRJ* 325, 36.

[15] Abu-Manneh, 'Jerusalem in the Tanzimat Period,' 10.

[16] *Ibid*., 11.

In the *Tanzimat* era the Ottomans pursued a policy of bureaucratic reform and administrative centralization that continued the process of ending the autonomy of the *afandiyāt* and the *umarā'* classes in the region begun by Maḥmūd II's military reforms of 1826 and Muḥammad 'Alī's policies beginning in 1834.[17] The Porte adapted the *Majlis al-Shūrā* to its own purposes and named the institution the '*Majlis al-Idāra*.'[18] During the *Tanzimat* period, the *afandiyāt* in their diminished roles in the reformed institutions of the Ottoman Empire continued to vie for their traditional appointments, but the Porte exercised control over this rivalry to its own advantage.[19]

By the time of the withdrawal of the Egyptian armies from Syria, the old Ottoman provincial order had indeed passed. The former position of the region's elites had been irreversibly altered. The future was uncertain, but the restoration of Ottoman rule in the area offered hope for a return to the legal standard of the *Sharī'a* and Ottoman administrative law, and with it, a redefinition of the status of the various segments of provincial society and their relationships to the political center. By the 1860s, the Swedish traveler Frederika Bremer could write:

> Ibrahim Pasha's time was a great epoch in the annals of Palesine and Syria. "It was before Ibrahim Pasha's time" is a current expression in the country when they indicate something which is beyond their memory. Ibrahim Pasha's time is remembered as a time of peace and the commencement of prosperity. Since Palestine has again come under the dominion of the Porte, the former state of insecurity has returned, and is becoming continually worse.[20]

When nomadic 'robber hordes' threatened attack, the usual cry of warning called out by the women who watched the herds in the hills around Bethlehem was, "Arab! Arab!" The continued insecurity of the countryside during the second half of the nineteenth century was what gave Westerners the impression of Turkish neglect, leading to the characterization of Palestine as an empty, desolate land.

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[17] On this, see Carter V. Findley, *Bureaucratic Reform in the Ottoman Empire: The Sublime Porte 1789–1922* (Princeton: Princeton University Press, 1980).

[18] *Ibid.*, 12–3.

[19] *Ibid.*, 16–44.

[20] Frederika Bremer, *Travels in the Holy Land*, trans. Mary Howitt (London: Hurst and Blackett, 1862), II:87–91.

Sacred Law in the Holy City: Thoughts on the Khedival Challenge to the Ottomans

We have traced three broad and interrelated themes: an analysis of the legal fundaments of Ottoman rule in Jerusalem and its changing nature under Khedival rule; a reexamination of the position and role of Muḥammad ʿAlī as an actor in the Ottoman system and as the leader of a singular political regime in Islamic history; and a reinterpretation of the political and socioeconomic order of Muslim society in the Holy City. Bringing indigenous legal documents to bear on more traditional sources and interpretations of this period has helped to retrieve individuals, powerful and pitiful, famed and forgotten, from the shadowy history of a culture long misunderstood in both the East and the West. Some conclusions and thoughts based upon these findings draw this work to its close.

The Rule of Law in Ottoman Jerusalem Before, During, and After the Khedival Period

The relationship of Jerusalem to other urban centers throughout the Ottoman Empire, and her relations with her rural hinterland shows that the Holy City was not so insular as previously believed. It is clear that religious symbolism has been used to assert, justify, strengthen, and defend political claims to sovereignty over the Holy City throughout its history. In the Islamic period, this was particularly true at the time of the Caliph ʿUmar and during the early years of the Umayyad Caliphate, and following the reconquest of the city by Ṣalāḥ al-Dīn al-Ayyūbī in the twelfth century. Jerusalem's centrality to the conflicts between Christendom and *Dār al-Islām* on the one hand and between Sunni and Shiʿi Islam (Fatimids) on the other, has bestowed upon the city a complicated urban culture which finds its most obvious expression in the Mamluk and Ottoman architecture found there.

More difficult to perceive, but infinitely more important for Muslim Jerusalem, however, was the highly articulated and bureaucratized form of Sunni Islam that, especially in Jerusalem, was the legacy of Ṣalāḥ al-Dīn to the Mamluk and Ottoman rulers of the city. In this study we have seen that the Shāfiʿī legal school remained the most prominent school until the suppression of the 1834 rebellion, despite the fact that the Ḥanafī was the premier Ottoman school.

The socioeconomic and political categories derived from the Ottoman military and fiscal system differentiated individuals within the Muslim, and, to a certain extent, within the Jewish and Christian communities also. The preeminent distinction was between the ruler and the ruled; the *ʿaskarī* and the *raʿāyā*. The *afandiyāt*—the privileged Muslims of the city of Jerusalem, who were either members of the legal profession—*ʿulamāʾ*—or descendants of the Prophet—*ashrāf* (and in some cases both), were the *ahālī*, 'the people.' These privileged people were exempted from paying certain taxes and performing military service, and fulfilled specialized functions in the empire, and as such were linked in a way with both the *ʿaskarī* and the *raʿāyā*. The *afandiyāt* of Jerusalem adhered to the Shāfiʿī school because of their continued identification with the hero Ṣalāḥ al-Dīn and his conquest of the city, a conquest in which many of their ancestors were said to have taken part.

The *afandiyāt* were flexible, and accommodated themselves to and identified themselves with Ottoman administration. Their role in administering and arbitrating land law was especially important for them, both economically and socially. The urban notables played numerous roles in the society and economy of the area, helping to administer imperial endowments and adjudicating disputes between the various economic classes.

This small-scale study has compared the application of Ottoman law before the *Tanzimat* to a new type of Sunni Muslim regime, the Khedival regime, established by Muḥammad ʿAlī in Jerusalem in the 1830s. This comparison of two forms of 'Islamic government' raises the question of whether there was a certain aspect of Islamic law that both regimes respected in administering the Holy City. What we have discovered is that it was the definition of justice that is the nexus for answering this question. What did the *ʿulamāʾ*, *umarāʾ*, and *raʿāyā* mean when they talked about justice? By what standard did they judge whether or not the government was just? Islamic rhetoric, used by both the Sultan and the Khedive, was not enough. The people had specific rights and duties under the law, and these determined the parameters of justice for them.

The Muslims of Jerusalem challenged both the Porte and Muḥammad ʿAlī, but they failed to change the direction of reform. Indeed, they had to obey the decisions of the Porte and the Khedive, and they were made to cooperate or be put to death if they tried to rebel. The power of coercion was not theirs, but the state's. Their practical maintenance of the agricultural system which supported the

religious institutions of the region during this period of intense political change has been obscured by the romanticized, ideological, and polemical nature of writings concerning Jerusalem. In this work a different aspect of the role of the Muslim elite of the city has been illuminated, revealing the underlying socioeconomic and political order that shaped the particular culture of Islamic Jerusalem during the first four decades of the nineteenth century.

The most important of these findings is the fact that the *afandiyāt* were the mediators between the urban and rural sectors of the community, and between the local, regional, and imperial centers of the empire. Their administrative role linked them with the poorest of the poor, who depended upon them for food and shelter, and to the imperial household itself, as they managed fiscal and agricultural matters on its behalf. Men and women of all classes and communities came to the *afandiyāt* to settle disputes, to record agreements, to allow them to speak on their behalf to government officials. The *afandiyāt* also had to serve the government in power, recording and publicizing decrees, providing information required for the collection of taxes, and remaining vigilant in the face of oppressive officials. When conflict arose, the *afandiyāt* were pivotal: either as mediators or actors they represented local interests in regional affairs.

The roles and interrelationships of the other major social groups in Jerusalem have also become clear. Set firmly in the context of Ottoman provincial administration, these groups can now be appreciated as part of a larger socioeconomic system and for their own particular historical and cultural attributes. Foremost among the other politically significant groups in *Bilād al-Shām* was the rural military class, the *umarā'*. Although they were themselves constantly beset by competing political rivalries encouraged by competing regional actors, as a group they had no conflict with the *afandiyāt* of Jerusalem. The military classes of Nablus and Abu Ghūsh, the *umarā'*, performed specialized security roles for the empire, particularly guaranteeing the safety of the pilgrimage and commercial routes of southwestern Syria. Nomadic groups also played a part in this and, in addition, provided portage services for the Ottomans.

The vast remainder of the people of the area, both urban and rural, were taxpayers: the productive members of the society upon whom the empire depended for its survival. They produced the food and the finished goods needed by both cities and armies, and paid the taxes which supported the military establishment and the legal

bureaucracy, as well as the household of the Sultan and his deputies. These taxpayers, Muslim, Christian, and Jewish, were often the pawns of ambitious and greedy officials. They were also the most valued part of the Ottoman society, because they were recognized as the basis of the entire edifice of the state. (There were also long-distance traders and merchants: for Jerusalem and its environs these played less of a role than in major commercial areas such as Aleppo, Damascus, Cairo, or Alexandria.)

When the conflict between Muḥammad ʿAlī and ʿAbdullāh Pasha came to a head, both the *afandiyāt* and *umarā'* initially considered it from a purely political perspective. Wary of the reform policies being implemented on the Sultan's behalf by ʿAbdullāh Pasha, the Ottoman Governor-General of Sidon, they threw in their lot with Muḥammad ʿAlī. Why the Muslims of Jerusalem and Nablus thought that they would fare better, both in terms of the preservation of their privileges and economically under Muḥammad ʿAlī is somewhat of a puzzle, given the raw experiences of their peers in Egypt. It seems impossible to me that they had not heard what Muḥammad ʿAlī had done in Cairo, linked as they were through Islamic institutions to that city. As we have seen, after a year and a half the status quo was shattered as the Khedive began to restructure the tax regime, economy, and military organization of the *sanjaq*s of Jerusalem and Nablus.

From evidence in the *sijillāt*, it has been possible to trace this critical process in great detail. Documents prove that the land tenure system and the military organization of the *sanjaqs* of Jerusalem and Nablus, despite Ottoman decrees ordering their reform, remained intact until the Khedival period. Evidence from the *sijillāt* also establishes the imposition, not only of the per capita *firda* tax on all of the residents of Syria, but also of the *iʿāna* tax as well. At the final hour, the *afandiyāt* of Jerusalem were exempted from this tax, a concession that did not prevent their joining forces with some of the *umarā'* of Nablus in the rebellion against Muḥammad ʿAlī.

Following the rebellion, the records of the Islamic Court reveal a clear trail of Khedival actions to reorder the Ottoman fiscal and administrative system. Without changing the legal character of lands in the region, the Khedival regime took steps to assert its control over its economic resources, including control over Islamic pious foundations endowed with agricultural lands. The *sijillāt* also show that so long as such institutions did not pose a threat to or prevent Muḥammad ʿAlī from gaining access to economic resources, they

were left under the control of their traditional administrators, in accordance with local practice.

The records also show the demographic impact of the rebellion, overtaxation, and military conscription upon the region, and how the Khedival administration attempted to take measures to encourage the repopulation of the area. This included establishing reasonable rates for the traditional dower in order to make it easier for young men to afford marriage. Moreover, the Khedival regime allowed the *musta'mīn* to enjoy commercial privileges, which resulted in the opening of foreign consulates and the entry of Europeans into the economy of the region. The codification of decrees—*al-Aḥkām al-Miṣriya*—with the explicit idea of creating an alternative legal code to replace the Ottoman *Qānūn* is the best demonstration of Muḥammad ʿAlī's high ambitions in the period directly before and following the suppression of the rebellions in Syria in 1834.

Despite these changes, it is clear that there was continuity as well. Although set up as administrative organs designed to implement Khedival policies and to report local conditions to the capital, the 'consultative councils' did not obviate the functions of the Islamic Court. The inherent distinction between *Sharīʿa* and *Siyāsa* was institutionalized, but there remained considerable bureaucratic overlap between the functions of these entities. The Ḥanafī chief judge, appointed in Istanbul, continued to oversee the function of the Islamic Court, which began to narrow its focus to cases dealing with personal status. Although the bureaucratic functions of the Islamic Court remained relatively stable, the Khedival regime succeeded in effecting fundamental social and economic change throughout *Bilād al-Shām* by merely decreeing policies which ignored Ottoman statutes.

The Khedival regime shook the legal context and the socioeconomic structure of Muslim Jerusalem to its core. Khedival policies made no distinctions on economic, political, or religious grounds regarding the payment of taxes. Muslims of all classes were conscripted into the army, although Jews and Christians were not. New groups of non-Muslims were allowed to reside in the city, and were pressuring the state for property rights, further threatening the once powerful social and economic hegemony of the *afandiyāt*.

Maḥmūd II's efforts at reforming the administration of the empire had been interrupted by Muḥammad ʿAlī's invasion of Syria. With that conflict resolved, the Porte could pursue Maḥmūd II's aims,

which ironically had been facilitated by Muḥammad ʿAlī's policies in Syria. Suraiya Faroqhi concluded that the reforms of the *Tanzimat* ultimately failed because of the "increasing nationalist and communal rivalries among the inhabitants of the Ottoman Empire" and because of "the political, economic, and cultural interventions of the various European powers."[21] Yet it was not these factors alone which "nullified the attempt to create a unified Ottoman citizen body irrespective of social, religious, and national differences," it was the unintended consequence of Ottoman policy itself, which formalized the various religious communities into autonomous political entities—the *millet*s, which overshadowed the rights of individual Ottoman citizens that evolved during the *Tanzimat* period.

The Western view of the position of religious minorities and their concern over the discriminatory social and economic culture of Ottoman society itself had an effect upon Ottoman policies. This in turn helped to sever economic and social relationships between the Muslim, Jewish, and Christian communities, since they no longer were all to be treated as members of the same flock which the Sultan-Caliph had sworn to protect. By intellectually separating the "rayahs" from the Muslims both economically and socially, Western politicians and those in the East influenced by them planted the seeds that as they germinated broke up the soil of the Ottoman Empire and developed into the roots of nationalist aspirations among the various constituent groups that composed the non-Muslim population of its Arab provinces.

During the *Tanzimat* period that followed the Khedival withdrawal from Syria, the dealings of Muslims, Jews, and Christians were no longer under the absolute authority of the Ottoman legal establishment. Without the social, economic and legal ties that bound them as *raʿāyā*, the Muslims, Jews, and Christians were set apart, which in turn fed Muslim antagonism toward non-Muslims.

The political and legal reforms initiated by both the Ottoman government and the Khedival regime, under the influence of Western perceptions and misconceptions of Muslim-Jewish relations under Ottoman rule, in turn affected how the *raʿāyā* of the empire saw themselves and how the Muslim administrative class saw themselves in relationship to the *dhimmī*s and *musta'mīn*s in their midst. With the

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[21] Suraiya Faroqhi, "Ra'aya," *Encylopaedia of Islam*, 2d ed, CD-ROM (E. J. Brill).

Gülhane Rescript, the old category of *raʿāyā* lost its meaning and the term '*millet*' began to be used to signal Ottoman awareness of the evolving self-conscious political identity of the autonomous religious communities of the empire.

New political distinctions between religious communities began to stratify the society, a phenomenon deeply linked not to a religious revival but to the growing sense of nationalism that had begun to take root in the Balkan provinces of the Ottoman Empire. The political aspirations of religious minorities linked the interests of non-Muslim Ottoman subjects with their non-Ottoman co-religionists. On one level, by sweeping away the privileges enjoyed by a few under the old dispensation, the Ottoman Empire in its reform efforts of 1839 aimed at affording all of its subjects the opportunity to be productive members of society without regard to their religious affiliation, to make them all members of the same flock in the classical Islamic sense. On another level, nevertheless, under that reformed Ottoman system the ruling class retained its absolute power, continuing to control the entire political, legislative, and judicial establishment. By reserving these rights, the essential sovereignty of the Sultan-Caliph foundered, even though Ottoman sultans continued to resist the growing desire for political representation and participation in the empire.

This study demonstrates how important it is to grasp the Ottoman legal tradition. The portrait of Jerusalem that emerges from this study shows that the political culture of the Holy City must be framed within the Ottoman political and socioeconomic landscape. The Ottoman system was inherently one of Islamic law. As the most highly articulated system of Sunni government in Islamic history, the impact of its operation shaped the culture and society of all its subjects. As a multiethnic, multilinguistic, and multireligious society, its highest aim was to ensure justice and security for all its inhabitants to guarantee the preservation of the state.

Within the Ottoman Empire, distinct local cultures found their own expression, and none more so than in Jerusalem. The Holy City held religious and symbolic value for the Ottoman regime, particularly during the time of the Ottoman conquest and the reign of Sulaymān the Magnificent, and during the nineteenth century. The Ottoman system of imperial endowments and military land grants integrated the economic resources of Jerusalem and southwestern Syria into the major fiscal institutions of the Ottoman Empire. The major *awqāf* of Jerusalem and Hebron were administered under the

aegis of the *waqf* over Islam's two holiest cities: Mecca and Medina. The important Palestinian agricultural areas along the Mediterranean littoral—Gaza, Lydda, Ramla, Acre—were first administered as part of the *tīmār* system and later as *mālikāne* estates granted to the admiral of the Ottoman fleet and to prominent members of the Sultan's house. Despite the integration of these resources into the Ottoman system, local urban notables from the Muslim administrative/legal class played an important role in their day-to-day functions, thereby accruing to them status and prestige as part of the Ottoman bureaucracy.

As this study shows, the *Sharīʿa* was important because it represented the ideal of true justice. The Ottoman administrative code was designed to complement the *Sharīʿa*, to be applied in circumstances not explicitly codified in the *Sunna*. In Jerusalem, we have found evidence of three of the four schools of Islamic law—the Shāfiʿī, Ḥanafī, and Mālikī—but, significantly, not the Ḥanbalī. This spirit of justice was expressed through the practice of an esteemed legal elite possessing and conferring authority upon those who acted in accordance with it. Ottoman law represented respect for precedent and yet flexibility in the interpretation and application of law for the complicated purpose of just government. An awareness of this led to a sounder understanding of abstract, theoretical matters such as law, politics, and society, an understanding that reflected the interpretation of moderate Sunnis like Ibn Khaldun, as opposed to the literalist interpretation of Ibn Taymiyya. Comparing the Ottoman conception of law to that of their enemies, the literalist Wahhabīs, is beyond the scope of this study, but the significance of that conflict is clearly even more important now than it was in Muḥammad ʿAlī's time, when he defeated them in Arabia.

Using similar historical case studies, it would be useful to compare these findings with other societies as they reformed ecclesiastical authority through the adoption of positive law, to compare and contrast notions of natural law across religious boundaries, and to understand the interplay between law and politics, theory and practice, the real and the ideal, and to suggest a theoretical paradigm that can be universally applied to these phenomena.

I have endeavored to situate the evidence that I have culled from the Islamic Court Archives of Jerusalem to create a panorama, with the individuals involved in the records set against the background of empire. This has been the only way to counter the almost unavoidable tendency to see Jerusalem as something different and apart, small

and insignificant, neglected and impoverished, waiting for some great force to shake off the dust of the ages and trumpet her redemption. It is my hope that I have offered a new vantage point from which to view her past, and to better address her future.

APPENDIX A

A NOTE ON TRANSLITERATIONS OF ARABIC AND TURKISH WORDS

Most of the foreign terms used here have been listed in simple alphabetical order in the glossary. Some terms used only once are defined in the text and are not listed there.

The words found in the glossary are listed in simple alphabetical order; *al-* is not alphabetized, thus the term *al-Ḥaramayn* should be looked up under *h*. Unless noted the words are Arabic, transliterated following Hans Wehr's *A Dictionary of Modern Written Arabic* with some modifications to align it with the format used in the *International Journal of Middle Eastern Studies*. When possible, the Arabic form is used; however, I've included Ottoman Turkish words. Arabic is usually given first, and the Ottoman word listed secondly and noted in explanation. In some cases the grammatical spelling is followed by the common pronunciation as given by Wehr. Ottoman terms follow the spellings given in the glossary of Robert Mantran, ed., *Histoire de l'Empire Ottoman* (Lille: Librarie Arthème Fayard, 1989) and Redhouse, again modified in conformity to the *IJMES* system. I have used the *JAIS1 TTW* font, based on Jaghbub and developed by the University of Bergen, for my word processing. I beg the reader's forbearance when inconsistencies and errors crop up in the text. Since this study is about Arab history, I thought it important to preserve the Arabic to the extent possible, for the enjoyment of the Arab reader. The problem of special diacritics is a bedevilment, and despite our best efforts, we know that there will be mistakes, as electronic gremlins may play their mischief.

APPENDIX B

A NOTE ON WEIGHTS AND MEASURES[1]

The most common form of money mentioned in this study is the *qurūsh*, known more commonly in the literature on Palestine as the *grūsh asādī*, or as the 'piastre.' According to Richard Wood, the value of the *qurūsh* by 1836 was 100 to every pound sterling. He reported that in 1815 the exchange rate was 25 to the pound; in 1820 35 to the pound, in 1830 77 to the pound, and in 1834 97 to the pound. A purse (*kīs*) was worth 500 *qurūsh* or about 5 pounds sterling.

Edward Robinson reported that 1 *qurūsh* equaled 40 *fiḍḍa*s (also known as *para*s)—these were the small silver coins in use. He also noted the following measures and weights:

Corn measures (dry)
1 *ardabb*—"nearly equal to 5 English Bushels"
1 *rubʿ*—24th part of an *ardabb*
1 *mudd*—12 *rubʿa*
1 *raṭl* (or pound) "is in general about 1/4 oz. less than the English pound *avoirdupois*, but is sometimes reckoned at 12 ozs."
1 *okka/uqqa* "(called by the Franks *oke*) equals about 2 and 3/4 pounds English"
1 *kinṭar* equals 100 *raṭl*s

[1] Cunningham, *Correspondence of Richard Wood*, 49; Robinson, *Biblical Researches*, xvi; and Marcus, *Eve of Modernity*, 387.

APPENDIX C

A NOTE ON THE ISLAMIC COURT RECORDS AS A SOURCE

Read on their own, the *sijillāt* are an imperfect source. As Rustum noted, the language of the *sijillāt* is neither classical nor modern Arabic.[1] The admixture of Turkish and Persian words and even grammar thrown into the documents makes the Arabic of the *sijillāt* a mirror of the spoken Arabic of Jerusalem in the 1830s. Some terms and phrases are untranslatable, and the spelling and grammar are not consistent with the established rules of either classical or modern Arabic.[2] Since the *sijillāt* can not stand on their own, other primary sources, such as Ṭarābulsī's account of the Khedival period, the consular records, and travelers' reports all help to fill in what the *sijillāt* left untold.[3]

Nevertheless, the documents, particularly the orders, have a lyricism and a style that must be read to be appreciated. They assume a broad knowledge of the specific social and economic organization of specific locales, Islamic practices and beliefs, and of the chain of command in the political administration, as well as the procedures and protocols used in the Islamic law courts and, of course, a firm grounding in Ottoman political and economic organization.

The documents reflect the changing needs and issues of society, and, taken as a large sample, can trace social and economic transformation and continuity. Scholars have used several methods to make use of the data contained in the *sijillāt*—reading all documents relating to one subject, e.g. particular communities, classes or institutions; specific issues, such as property and ownership, disease, or scholarly relations; or sampling one volume at specific intervals.[4] In

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[1] Rustum, "Syria Under Mehemet Ali," 5–6.

[2] For example, in the case of the *hamza* found midword, the *sijillāt* almost always render it as a '*yā*.'

[3] Rustum, "Syria Under Mehemet Ali," which is a translation of Naufāl Naufāl al-Ṭarābulsī's account.

[4] For studies focusing on one subject over a long period of time, see, for example,

this case, I selected one brief period—ten years—that was distinguished by a unique break in the political, and therefore social and economic, organization of a particular place. Having read both originals and copies, the use of the original manuscript is preferable to facsimiles since they are the clearest possible to read.[5]

Carefully reading the entire collection of documents was a time-consuming process, exacerbated by limitations in the availability of the source caused both by brief and leisurely working days at the court and closings due to political unrest. The use of photo duplication was forbidden, and therefore transcription of entire documents was required. Despite those difficulties, the staff of the court was unfailingly helpful and courteous. Without the assistance of Shaykh As'ad, my work would have been difficult indeed. He would happily examine a difficult document and, even after my return to the States, would recheck documents that still eluded my grasp. Other students working in the court discussed their work and shared pointers, and Amnon Cohen, who has blazed the trail for those who have followed, always lent his tremendous knowledge to assist the efforts of his students.

Although I collected many more documents than those cited directly in the text, I was disappointed that the *sijillāt* from the period that I had chosen did not contain the economic data that I had expected. For this time period, there was very little information on guilds, manufactures (especially of soap), the provisioning of the city, nor were the financial records on *awqāf*, actual figures for remitted taxes and other revenues and so forth available. There was much information that I did not utilize, such as legacies (*matrūkāt*), simple sales of real estate, and marriage and divorce documents. I selected some documents because they contained *fatwā*s related to a special research interest, such as imperial *awqāf, mīrī*, and *mulk* properties, and some concerning the *'ulamā'* and other prominent people, government policies, the 1834 rebellion and its effects, and so on. My study was shaped by the nature of the documents that the *sijillāt* contained, and was limited by them.

Cohen, *Jewish Life*; Tucker, *Women in Nineteenth-Century Egypt*; and Marcus, *Eve of Modernity*; for a study based on volume samples at ten-year intervals see Reilly, 'Shari'a Court Registers,' 155–71. I have chosen to follow Reilly's citation format.

[5] Therefore I decided to work in East Jerusalem, rather than with the facsimiles housed at the University of Jordan or Abu Dis.

The Sijillāt *Themselves*

The word *sijill*, or 'register', is derived from the Latin word *sigillum*. In the Jerusalem Court Archives now housed in the *Ḥaram al-Sharīf*, there is a collection of a total of four hundred and fourteen volumes dating from 1529–1530 (A.H. 936).[6] In comparison, the collection in Damascus begins in 1583, in Aleppo 1555, and in Istanbul (*mühimme* series) begins in 1544 with a gap until 1552–1553. Of the four hundred and fourteen volumes in Jerusalem, eighty date from the sixteenth century with a twenty-month gap between 1574 and 1576. These volumes include one volume, number 50, covering legacies (*tarikāt*), one volume consisting of the *daftar al-mufaṣṣal* (number 70), thirteen volumes consisting of government orders (*awāmir*), and sixty-five volumes of the 'regular *sijillāt*'—chronological compilations of court business covering every subject in which the court was involved, including: imperial and provincial orders, appointments, dismissals and official correspondence; legacies, trusts, and powers of attorney; marriage and divorce contracts; guardianship, pensions, and benefits documents; property sales, leases, and transfers; commercial transactions and disputes, property disputes, criminal cases, petitions, *fatwā*s, and agreements reached after arbitrated disputes.

For the nineteenth century, there exist one hundred and eleven volumes. Number 389 is a volume containing only legacies and number 348 contains only government orders. In addition, nine volumes contain trusteeships and powers of attorney (*waqfiyāt* and *wikālāt*). Finally, one hundred volumes are 'regular *sijillāt*.'

I focused upon ten volumes dating from 1830–1841, although I read three volumes covering the period before 1830 as well. The period of Egyptian rule is referred to in the *sijillāt* themselves in Arabic as "*Waqt al-Dawla al-Miṣriya*" (the Time of the Egyptian 'State' or the Time of the Egyptian 'Turn at Governing') and in Turkish "*Ibrāhīm Pasha zamın*" ("Ibrahim Pasha's time").[7] A brief description of each follows.

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[6] Beshara B. Doumani, 'The Islamic Court Records of Palestine,' *Birzeit Research Review*, no. 2 (Winter 1985/6), 3–29; Mandaville, 'The Ottoman Court Records of Syria and Jordan,' 311–9; and Mannā', "Sijill as a Source."

[7] *LCRJ*, 324, 88; 325, 70.

Brief Descriptions of Sijillāt *and Their Contents*

1. *Law Court Register of Jerusalem, Volume 315*

   Dates: 18 *Jumādā I* 1246/27 July 1830–*Rajab* 1247/August 1831
   Pages: 141
   Size: 39.5 × 18.5 centimeters
   Chief Judge: Al-Sayyid Abū Bakr Afandī Zāde Muṣṭafā
   Condition: fair, some staining

2. *Law Court Register of Jerusalem, Volume 316*

   Dates: 15 *Shaʿbān* 1247/19 January 1832–*Ramaḍān* 1247/19 February 1832
   Pages: 45
   Size: 51 × 17.5 centimeters
   Chief Judge: Al-Sayyid Abū Bakr Afandī Zāde Muṣṭafā
   Condition: poor, pages brittle, stained and torn

3. *Law Court Register of Jerusalem, Volume 317*

   Dates: 27 *Rajab* 1247/1 January 1832–*Ṣafar* 1249/20 June 1833
   Pages: 165
   Size: 54.5 × 19 centimeters
   Chief Judge: Muṣṭafā al-Khādamī, son of Al-Sayyid ʿAlī Jārallāh
   Bāshkātib: Muḥammad ʿAlī al-Khālidī
   Condition: excellent, beautifully written

4. *Law Court Register of Jerusalem, Volume 318*

   Dates: 21 *Muḥarram* 1249/10 June 1833–*Ṣafar* 1250/9 June 1834
   Pages: 138
   Size: 49 × 19.25 centimeters
   Chief Judge: Al-Sayyid Yaḥya Tawfīq Ḥaṭwānī Zāde
   Bāshkātib: Muḥammad ʿAlī al-Khālidī
   Condition: excellent, beautifully written

5. *Law Court Register of Jerusalem, Volume 319*

Dates: 20 *Shaʿbān* 1249/2 January 1834–beginning of *Jumādā I* 1251/August 1835
Pages: 192
Size: 56.25 × 19.25 centimeters
Chief Judge: ʿAlī Rāteb Bey
Condition: pp. 1–78 very clear; 79–192 very difficult

6. *Law Court Register of Jerusalem, Volume 320*

Dates: 24 *Shawwāl* 1250/23 February 1835–21 *Shaʿbān* 1252/1 December 1836
Pages: 238
Size: 56.25 × 20 centimeters
Chief Judge: ʿAmr al-Harīrī Zāde, "from Istanbul"
Condition: good

7. *Law Court Register of Jerusalem, Volume 321*

Dates: *Ramaḍān* 1252/10 December 1836–*Dhū-l-Ḥijja* 1253/16 February 1838
Pages: 278
Size: 56.5 × 20 centimeters
Chief Judge: Muḥammad Ḥamadallāh
Condition: good

8. *Law Court Register of Jerusalem, Volume 322*

Dates: *Rajab* 1253/1 October 1837–24 *Rabīʿ II* 1255/7 July 1839
Pages: 290
Size: 47.5 × 17.5 centimeters
Chief Judge: ʿAlī Ramzī
Naʾīb: Muḥammad ʿAlī al-Khālidī
Condition: good

On page 63, the following appears: *Mawlānā* al-Ḥājj Muḥammad Ṭāhir Afandī al-Ḥusaynī, *Ḥanafī Muftī* in Jerusalem; and *Mawlanā* al-Sayyid Ḥusayn Afandī al-Ḥusayn al-Dajānī, *Ḥanafī Muftī* in Jaffa. It is possible that during disruptions these local *'ulamā'* filled in temporarily until regular appointments could be made.

9. *Law Court Register of Jerusalem, Volume 323*

Dates: 22 *Shawwāl* 1254/30 September 1838–*Rabīʿ II* 1256/2 June 1840
Pages: 121
Size: 56 × 20 centimeters
Chief Judge: Ibrāhīm Adham Afandī, *Wakīl Mutasallim al-Quds* al-Sayyid Muḥammad ʿAlī Aghā Dizdār
Condition: good

This volume marks the accession of Sultan ʿAbd al-Majīd and the restoration of Ottoman control.

10. *Law Court Register of Jerusalem, Volume 324*

Dates: 4 *Jumādā I* 1256/14 June 1840–8 *Rabīʿ II* 1257/30 May 1841
Pages: 156
Size: 54.5 × 20 centimeters
Chief Judge: al-Ḥājj Muḥammad Hamdī Afandī
Bāshkātib: Muḥammad ʿAlī al-Khālidī
Condition: good

This volume and the next contain a great deal of information concerning the *Tanzimat* and the restoration of Ottoman control in Jerusalem.

11. *Law Court Register of Jerusalem, Volume 325*

Dates: 27 *Rabīʿ I* 1257/18 June 1841–15 *Jumādā II* 1258/24 July 1842
Pages: 230
Size: 56 × 19.5 centimeters
Chief Judge: Al-Sayyid Aḥmad Nadhif Afandī
Bāshkātib: Muḥammad ʿAlī al-Khālidī
Condition: good

APPENDIX D

CHRONOLOGY: VARIOUS TABLES

1. *Mutasallim*s of Jerusalem Referenced in the *Sijillāt*
2. Khedival Administration of *Barr al-Shām* (1833)
3. Members of the Jerusalem *Majlis al-Shūrā* (1840)
4. Officials in Ottoman Administration of Miscellaneous Islamic Institutions in Jerusalem during the 1830s

1. Mutasallims *of Jerusalem referenced in the* Sijillāt

Kanj Aḥmad Aghā (1810)
ʿAbd al-Karīm Aghā (1814)
Ḥakimoğlu Muṣṭafā Aghā (1820)
Sulaymān Afandī (1821)
Ḥājj ʿAlī Afandī (1821)
Muḥammad Saʿīd, Deputy *Mutasallim* of Jerusalem (1821)
Ismāʾīl Bey (1824/1825)
ʿUthmān Aghā (1825/1827)
Abāẓā Ibrāhīm Aghā (1826, reappointed 1827)
Ismāʾīl Afandī (1827)
Ḥafiẓ Muḥammad Aghā (1827)
Muṣṭafā Afandī (1829)
Aḥmad Bey al-Dizdār (1829)
Abāẓā Ibrāhīm Aghā (1829/1830)
Shaykh Saʿīd al-Muṣṭafā (1831)
Muḥammad Shahīn Aghā (1831, reconfirmed but declined 1832)
Yaḥya Bey, Alay Bey of Jerusalem, appointed temporary *Mutasallim* of Jerusalem (1831/1832)
Ḥājj Muḥammad Saʿīd Aghā (1832)
Qāsim al-Aḥmad (1832)
Muḥammad al-Qāsim, son of Qāsim al-Aḥmad (1833)
Yūsuf al-Qāsim, son of Qāsim al-Aḥmad (1833)
Jabr Abū Ghūsh (1834/1835)
Muṣṭafā Aghā al-Saʿīd (1836/1837)

Muḥammad ʿAlī Aghā al-Dizdār (1838)
Aḥmad Aghā al-ʿAsalī al-Dizdār (1838/1839)

2. *Khedival Administration of* Barr al-Shām *(1833)*

Muḥammad Sharīf Pasha, *Ḥikimdār* and *Mudīr* of *Eyālet* of Sidon/Damascus
Ismāʾīl Bey, *Mudīr* of *Eyālet* of Aleppo
Muṣṭafā Barbar, *Mudīr* of *Eyālet* of Tripoli
Aḥmad Menikli Pasha, *Mudīr* of *Eyālet* of Adana/Tarsus
Ḥusayn ʿAbd al-Hādī, *Mudīr* of *Eyālet* of Sidon/Jerusalem/Nablus

3. *Members of the Jerusalem* Majlis al-Shūrā *(1840)*

Abū Suʿūd Afandī, Head (*Raʾīs*)
Muḥammad ʿAlī Afandī al-Khālidī, *Qāʾimmaqām Naqīb al-Ashrāf* of Jerusalem
Khalīl Afandī al-Khālidī
ʿUthmān Afandī Abū Suʿūd
Darwīsh ʿAlī Afandī Zāde
Shākir al-Muwaqit
Najm al-Dīn al-Jamāʿī
Ibrāhīm al-Muhtadī
Jārallāh, Clerk of Jerusalem *Majlis al-Shūrā*
Muḥammad al-Ramlī
Wafā Muʿayin, Clerk of Jerusalem *Majlis al-Shūrā*
Ronī, Jewish member
Yūsuf, Catholic (Franciscan) member
Yaʿqūb Hasir, Armenian member

4. *Officials in Ottoman Administration of miscellaneous Islamic institutions in Jerusalem during the 1830s*

Shaykh al-Sayyid Wafā Afandī al-ʿAlamī, *Mutaṣarrif* of *Khānqāh al-Ṣalāḥiya*
ʿAbdullāh Wafā Afandī al-ʿAlamī, *Mutawallī* of *Waqf* of *Ḥaramayn al-Sharīfayn*

Shaykh Muḥammad Asʿad, *Imām* of *al-Aqṣā* and *Shāfiʿī Muftī* of Jerusalem (1834)

al-Sayyid Muḥammad Murtaḍa Jaʿfarī, Jerusalem *Qāḍī*, *Nāzir* of *Khaṣṣekī Sulṭān* madrasa in Ramla

ʿAlī al-Khalafāwī, *Imām* of *Al-Aqṣā* Mosque (1834)

Shaykh Muḥammad Saʿīd al-Khalafāwī, *Shāfiʿī Muftī* of Jerusalem (d. 1834)

Muṣṭafā al-Khālidī, *Muḥdir Bashı* (1834)

Muḥammad ʿAlī Afandī al-Khālidī, *Bāshkātib* of *Maḥkama* (1836)

Rashīd al-Khālidī, Clerk of *Maḥkama* (1836)

Maḥmūd al-Muhtadī, *Mutawallī* of Hebron *waqf*

(Muḥammad) Ṭāhir al-Ḥusaynī, *Ḥanafī Muftī* of Jerusalem, *Nāzir* of the *Majlis al-Shūrā* of Jerusalem (following return from exile in 1836)

ʿUmar al-Ḥusaynī, Deputy (*Qā'immaqām*) *Naqīb al-Ashrāf* of Jerusalem

GLOSSARY

ʿabd	slave
ʿādālet	Ottoman conception of justice which provided the underlying legitimacy of the state
ʿādāletnāme	justice decrees issued to address corruption and unjust government
afandī	an Ottoman term meaning gentleman, but used in Jerusalem to describe the Muslim administrators serving the Porte in various legal, clerical, and civil posts
afandiyāt (effendiyat-T)	term used to describe social group which included the *ʿulamāʾ* and *ashrāf* of Jerusalem
āghā	high military rank
ahālī	Muslim inhabitants of a city specifically exempted from the payment of the *mīrī* land tax, term carries special connotation of 'folk' as in the Prophet Muḥammad's kin
ahl al-milla	the Muslim community
ahl al-dhimma	taxpaying non-Muslims living under the protection of an Islamic state
aḥkām	decrees made by governing authority constituting a corpus of laws, as in *al-Aḥkām al-Miṣriya*, the Egyptian Code promulgated under Muḥammad ʿAlī
ajnabī	foreigner, or outsider, even an inhabitant of a neighboring city or village
akçe	also *ʿuthmāniya*; often *asper* in European sources, a silver Ottoman coin—120 *akçe* equals one *qurūsh*, used only as a unit of account, no longer circulating as currency
ʿala al-ruʾūs	per capita taxation
alay bey	a regimental commander
ʿālim	a scholar of the Islamic sciences, see *ʿulamāʾ*
amīr/plural *umarāʾ*/*emīr*	prince, lord see *umarāʾ*
amīr al-ḥajj	commander of the *Ḥajj* caravan
al-Aqṣā, Masjid al-Aqṣā	the 'furthest mosque' in Jerusalem
arḍ	land, used especially in geographical contexts, as in the land of Palestine (*arḍ filasṭīn*) and the Holy Land (literally, the Holy Lands—*arāḍ al-muqaddasa*) found in the Islamic Court records and Muslim geographical dictionaries of the Middle Ages
ardabb/irdabb	a dry measure roughly equal to five English bushels
ʿarḍuḥāl	petition
ashrāf	'noble ones,' i.e. people tracing their descent from the Prophet Muḥammad
ʿaskarī/*ʿaskerī*	members of the Ottoman military ruling class
ʿawārid/*ʿavāriz-i divāniye*	Ottoman term for irregular taxes imposed especially during wartime, often these were considered illegal at the local level
ʿawaʾid	extraordinary taxes
awqāf	plural of *waqf*

aʿyān	literally, prominent or notable person; specifically in the Ottoman Empire, an indigenous rural notable who, through the building up of a local militia and the development of independent sources of economic power, successfully challenged provincial administrative order. This term gained currency especially in the late eighteenth century when the power of such notables was recognized by the Porte with the establishment of a new category of rulers, called the *aʿyānlık*. Also, during Ottoman times, the term could be used to honor urban notables, not necessarily of the class of *ʿulamāʾ* and *ashrāf*, considered to be important for the dissemination and enforcement of official decrees and orders and, in general, capable of influencing public opinion. Other terms used included *derebey*, in the sense of a rural leader outside the bounds of Ottoman provincial administration, and *wujūh*, in the sense of a prominent, primarily urban person. In the Jerusalem court records, the term was used to denote urban notables.
bāb	gate, door
badal	substitute
berāt	(T) license or certificate documenting the Sultan's personal authorization, especially a document of appointment
bāshkātib	chief clerk of the Islamic Court
bāshmuʿāwin	chief administrator of Khedival regime in Syria
Bayt Māl al-Muslimīn	one of the names of the treasury of the Ottoman Government; the Muslims' treasury, especially used to refer to the treasury which collected the uninheritable property for the state
bedestan	Ottoman term used for the central covered market around which the entire commercial sector of a classical Ottoman city is organized
Bilād al-Shām	The Province of Damascus, including the Hauran, Damascus, Lebanon, Palestine, and Transjordan
çiftlik	Ottoman term for a category of land holding employed for commercialized farming
daftar	notebook, ledger
daftar al-ḥākānī	Imperial register
daftarhāne	Imperial registry in Istanbul
daftar mufaṣṣal	register of tax obligations kept for each province and subprovincial district, organized by towns, villages, and groups of nomads
dawla	dynasty, the government of a dynastic state, a territorial state
dawra	the tax collection circuit conducted on an annual, or more frequent basis to collect revenues for the *Ḥajj* pilgrimage and other taxes collected by the provincial governor-general
derebey	(T) valley lord, see *aʿyān*
dhimmī	a free Jewish or Christian person living under covenanted protection under Muslim rule in accordance with the *Qurʾān*
dirhām	one gold piece; *dirāhim* in Arabic usage, can mean 'in coin'
dīvān/dīwān	government council
eyālet	Ottoman term for province, also *wilayet, vilayet*
fakhr	an honorific title meaning 'pride' or 'boast' of one's community
fallāḥ/fallāḥūn	free agricultural workers, peasants
faqīr/fuqarāʾ	the working poor: poor one, humble one
fatwā	Islamic legal opinion rendered by a *muftī*

fayʿ	booty from Holy War
fiḍḍa	a silver coin also known as a *para*
fiqh	Islamic jurisprudence
firda	per capita tax imposed by Muḥammad ʿAlī on all males over the age of fourteen years
firmān	a sultanic edict
grūsh	common currency in Jerusalem, equal to 120 *akçe*; see *qurūsh*
hākūra	garden
al-Ḥaram al-Sharīf	the Holy Sanctuary of Jerusalem, encompassing the entire Herodian Temple platform, often referred after Jewish usage as the 'Temple Mount' (Har HaBayit)
al-Ḥaramayn al-Sharīfayn	'The Two Sanctuaries,' usually Mecca and Medina, although the term occasionally is used for Jerusalem and Hebron, and can also refer to the *Al-Aqṣā* Mosque and the Dome of the Rock
ḥadīth	traditions ascribed to the Prophet which form an additional source in Islamic jurisprudence
ḥāfiẓ	protector, guardian
Ḥajj	the annual pilgrimage to Mecca beginning in Damascus
ḥājj	pilgrim, or one who has undertaken the *Ḥajj*, a matter conferring great respect
ḥākim	Islamic judge or person who promulgates laws
Ḥanafī	the first of the four Orthodox Islamic schools of jurisprudence, named for its founder, Abu Ḥanīfa (d. 767) who was the master of Abū Yūsuf (d. 798) upon whose interpretations the Ottomans based their legal system; this school originated with Iraqi and Abbasid interpretations of the *Sharīʿa*
Ḥanbalī	the last of the four schools of Orthodox Islamic schools of jurisprudence, founded by Ibn Ḥanbal (d. 855) characterized by a rationalized form of Islamic theology that also arose in Abassid Iraq; no cases are recorded for this period concerning a Ḥanbalī judge, although Nablus followed the Ḥanbalī *madhab*
ḥaqq	a right under the law
ḥawālāt	tax record 'bundles' collected for the Porte by governors-general
ḥikimdār	appointee in charge of non-military affairs during the Muḥammad ʿAlī period
hoja/khujja	title conferred upon an honored man, especially merchants
ḥujja	a legal document
ḥukm/aḥkām	legal decisions and rulings, see *aḥkām, ḥākim*
ʿāna	unauthorized tax, collected as a lump sum
iltizām	Ottoman tax-farming system
imām	prayer leader; leader of the Muslim community: one of the titles of the Ottoman Sultan
ʿimaret	soup kitchen administered by a charitable organization
istibdāl	exchange of money for property, also used for the exchange of one *waqf* property for another
jabal	mountains
Janissary corps	famed Ottoman military elite, abolished in 1826
jirnāl	a petition of complaint
jizya	the capitation tax paid by *dhimmī*s in lieu of military service, equivalent to the *kharāj*

jizyadār	officer who collects the *jizya*
kāhiya	(T) personal representative and servant of an Ottoman official
kānūnnāme	(T) fundamental code of law organizing imperial government promulgated outside the bounds of the *Sharīʿa* without contravening it; local codes may concern only mundane matters particularly relating to taxation
kapudan pasha	(T) see also *qabṭān pashā*: admiral commanding Ottoman fleet
kethūdā	(T) adjunct to an officer
khādim	servant of a religious institution
khān	a fortified building, typically of two stories, used by merchants to shelter their livestock, goods, and themselves overnight, men above, beasts below, and an open courtyard facilitating trade
khānqāh	*Ṣūfī* hospice
kharāj	land tax paid by Muslims and non-Muslims living in conquered territories
khāṣṣ/hāṣṣ	in Ottoman land tenure the highest form of the *tīmār* valued at more than one hundred thousand *akçe* given to those close to the Sultan or to high officials, often encompasses the provincial capital assigned to the provincial governor-general
khaṭīb	one who delivers the Friday sermon
Khazīnat al-ʿImāra	in Jerusalem, the treasury controlling the *Khaṣṣekī Sulṭān Waqf* which consisted of a soup kitchen, a shelter, and a complex of shops which helped to support its charitable works
khedīw	Persian term for a ruler adopted by Muḥammad ʿAlī as his title (I have opted for 'Khedival' as the adjective, rather than the rather awkward 'Khedivial' found in Wehr)
khuṭba	the Friday sermon
kīs	equal to 500 *qurūsh* or approximately five pounds sterling
kul	Ottoman term for a servant of the Sultan brought up in the Palace schools, with no right to property except in the service of the Porte
liwāʾ	divisions of a province; subdistrict, also *sanjaq*
madhhab	school of Islamic jurisprudence
madīna	city; *madīnat al-Quds*: Jerusalem
madrasa	Islamic school
maḥlul	vacant
maḥmiya	protected, walled
maḥrūsa	walled, protected
majlis	assembly, council, *Majlis al-Shūrā*; Consultative Assembly
mālikāne	(Persian) land leased by the state for long duration to members of the *ʿaskarī* class
Mālikī	one of the four recognized schools of Orthodox Islamic jurisprudence, named for its founder Mālik ibn Anas (715–795) who taught in Medina
mamluk	military elite who were defined as slaves and as such had no right to pass their property on to their sons as were the *raʿāyā*; however, *mamluk*s usually were manumitted quite early in their careers
maqṭuʿ	a tax collected as a lump sum from a community
masākīn	the poorest ones, the miserable, destitute
mashaykhat	the post of master in guild or *Ṣūfī* lodge
masjid	mosque
mawlā, mawlānā	lord, master, our lord; honorary title of the Chief Judge of an Islamic court; also commonly *mullā*
miʿmār pasha	chief engineer, building inspector of a city

miḥrāb prayer niche in a mosque marking the correct direction of Mecca
milk/mulk absolute, heritable property
milla/millet a community, the autonomous religious community recognized by Islamic law and which, during the 1830s and culminating in 1860, received formal recognition under the Ottomans as a political community
minbar a pulpit in a mosque from where the Friday sermon is delivered
mīr līwā' honorific title for commander of the province
mīrī Ottoman term for imperial territories subject to the land tax
mubāshir chief accountant in the Khedival provincial administration
mudd dry measure equaling twelve *rub'a*
mudīr director, title of Ḥusayn 'Abd al-Hādī during Ibrāhīm Pasha's rule
muḥasib government revenue collector
muḥdir basha Islamic Court bailiff
muftī a member of the *'ulamā'* who delivers legal opinions
mullā chief judge of the *maḥkama*: see *mawlā*
multazim holder of an *iltizām*, tax-farmer
muqāṭa'a a parcel of land or other revenue source, for example customs duties or market taxes, delineated and assigned by the government underlying the Ottoman land tenure system
musta'mīn foreign resident living under the protection of the Ottoman Empire
mutasallim spokesperson; deputy governor appointed by the governor-general to administer a provincial district, or *sanjaq*
mutaṣarrif an official under the governor-general, responsible for collecting revenues from those areas
mutawallī custodian of a *waqf*: for the *'ulamā'* a position that offered them influence and economic power within the *muqāṭa'a* system
nāḥiya subdivision of provincial subdistricts
na'ib adjunct to an official, especially a judge
naqīb al-ashrāf the appointed head of the lineal descendants of the Prophet
nāẓir superintendent, overseer of a *waqf*, see *mutawallī*
nizām order, popular name of the Egyptian army under Muḥammad 'Alī; *Nizām al-Jadīd*, the 'New Order' organized by Muḥammad 'Alī
piyāde (T) an Ottoman foot soldier
qabṭān pashā/kapudan pasha (A) admiral of the Ottoman fleet
qaḍā' judicial district
qāḍī Islamic judge
qā'immaqām temporary replacement or representative
qal'a citadel or fortress
qānūn/kānūn law promulgated outside the bounds of the *Sharī'a*
qibla the direction of prayer i.e., Mecca
qinṭār a weight equaling one hundred *ruṭl*s, see *raṭl*
qubbat al-ṣakhrā The Dome of the Rock, often mistakenly called the Mosque of Omar, in Jerusalem
Qur'ān the divinely revealed book given to Muḥammad the Prophet
qurūsh/grūsh asādī also *piastre*, this common currency was a silver coin equaling one hundred twenty *'uthmaniya* or *akçe*, sometimes referred to as 'whites'
ra'āyā/re'ayā all Ottoman taxpaying subjects; Muslim and *dhimmī*; literally 'flocks'

rāfiʾ	removal of a privilege or the person relieved of a privilege
raqīq	slave
raṭl/ruṭl	a weight equivalent to approximately twelve ounces
rubʿ	one twenty-fourth of an *ardabb*
sabīl	a fountain; in Islamic terms, the construction of a fountain is considered to be a mark of good government and private generosity
ṣabr	prickly pear
salgun	(T) illegal requisitions
salma	(T) illegal requisitions
ṣaḥiḥ	valid, legal, true
sanjaq/sancak	divisions of a province; a subdistrict, also *liwāʾ*
sarāy	palace
ṣarrāf	treasurer
sayyid	master, lord; commonly used as an honorific title held by descendants of the Prophet, the *ashrāf*, always used to denote members of the *ʿulamāʾ* class, but also used for non-members
serʿasker	(T) Commander of the Army: title chosen by Ibrāhīm Pasha
serʿasker al-dawra	the commander of the tax collection circuit
Shāfiʿī	the second of the four schools of Orthodox Islamic jurisprudence; named for its founder, Muḥammad ibn Idrīs al-Shāfiʿī (d. 820), this *madhab* was important in Jerusalem during the Ottoman period even though the Ottoman Empire was itself grounded in the Ḥanafī school, and the Chief Judge appointed to sit in the Islamic Court in Jerusalem was therefore Ḥanafī
Sharīʿa	Islamic law, based upon the corpus of the *Qurʾān*, or the Divine Revelation given to Muḥammad the Prophet; the *ḥadīth*, or traditions ascribed to the Prophet; and the *fiqh*, or jurisprudence developed by Orthodox scholars of the four recognized schools of Sunni Islam: the Ḥanafī, Shāfiʿī, Ḥanbalī, and Mālikī *madhabs*; see the third chapter of Marshall G. S. Hodgson's *The Venture of Islam: The Classical Age of Islam* (Chicago: University of Chicago Press, 1974), 315–58 for an overview of this subject
shaykh	elder; *shaykh al-balad*, chief of the village
shūrā	consultation
sipāhī	(T) a member of the Ottoman cavalry; in the provinces they commanded both military and economic resources making them the most powerful class at least until about 1600; they were bound to serve the Sultan at his pleasure throughout the empire
siyāsa	administrative laws promulgated outside of the *Sharīʿa* empowering delegated representatives of the Sultan to administer the empire and maintain law and order
siyāda	the quality of integrity that comes from being a descendant of the Prophet Muḥammad
ṣūfī	adherents to mystical interpretations of Islam, organized into brotherhoods often residing together in lodges
sulḥ	an arbitrated settlement of a dispute, does not possess the force of law until recorded in the Islamic Court
sūq	market; in Jerusalem, the markets included: *Sūq al-ʿAṭṭārīn*—Spice Merchants' market, *Sūq al-Ḍabbagha*—Tanners' market, *Sūq al-Laḥḥamīn*—Butchers' market and *Sūq al-Qaṭṭānīn*—Cotton Merchants' market
ṣūrrat	a 'purse' or money sent to the aid of the Muslims of a city from Istanbul (*al-ṣūrrat rūmīya*) and Cairo (*al-ṣūrrat miṣriya*) to Mecca and Medina

ṣūrrat āmāna	a tax on travelers along the Jaffa-Jerusalem road
tadhkira	official document authorizing permission to travel
taḥrīr	a register
ṭā'ifa	a group, used either in the sense of a religious community or of a guild
takīya	hospice, place of charity
Tanzimat	(T) the Ottoman imperial reorganization of 1839 beginning with the Gülhane Rescript which lasted until about 1876 and the rule of ʿAbd al-Ḥamīd II
tapu taḥrīr	tax survey
taqāʿud	pension
tekālif-i 'örfiyye	(T) arbitrary taxes
tekālif-i şākka	(T) rapacious levies
tevcihat	(T) a list of Ottoman appointments and promotions
tīmār	Ottoman military land grant
tughra	seal or signature of the Sultan of the Ottoman Empire
tujjār	long-distance merchants
ʿulamā'	jurisconsults trained in Islamic law; when serving as *muftī*s they render legal opinions, when serving as judges, they make legal decisions
umarā'/amīr (singular)	princes; the ruling class of the Nablus *sanjaq*
uqqa	a weight approximately equaling two and three quarters English pounds
ʿurf	customary law
ʿushr	tithe paid by Muslims to the Ottoman Treasury
ʿuthmāniya	silver coin equivalent to an *akçe*
wakīl	representative or proxy
wālī/vālī	governor-general, possessing both military and administrative power as delegated by the Sultan; also supervisor of *waqf*
waqf/vakif (pl. awqāf/evkaf)	capital and real property dedicated for religious and charitable purposes and removed from taxation or appropriation by the *bayt al-māl al-muslimīn; waqf awlādiya*: family *waqf; waqf khayrīya*: charitable *waqf*
wilāya/vilayet	province
wujūh	notable personage
zaʿīm/zuʿama	military leader granted land in return for military service under the *tīmār* system
zāwiya	a *ṣūfī* lodge
ziʿāmet	(T) a *tīmār* grant valued at a minimum of twenty thousand *akçe*

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