THE INSTITUTION OF APPEAL IN THE LEGAL SYSTEM OF THE OTTOMAN EMPIRE DURING THE TRANSITIONAL PERIOD[1]

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SUMMARY: The institution of appeal was one of the fundamental organizational principles of the Ottoman Empire – and of the core institutions of the Islamic legal system – and was based on the concept of just rule, namely of legal security and universal access to justice for all subjects of the state. The decentralization of the Ottoman Empire during the transitional period (17th to 18th century) caused a change in the relations between the center and the periphery, where the institute of appeal through grievance administration underwent an abrupt expansion, especially after 1742. This paper is, on the one hand, an attempt to analyze the expansion process of the institution of appeal along with this institution's actual role within the Ottoman legal system; on the other, the paper strives to determine the part appeals played in local proto-political struggles.

KEY WORDS: Ottoman Empire, transitional period, institution of appeal, *ahkâm* administration, political initiatives

All aspects of how the Ottoman Empire functioned were deeply shaped by its vast and diverse territory and the variety of cultures and traditions which inhabited it. From the organization of central power to provincial administrations, from its tax system to its military, adapting to ever-changing circumstances was one of the constant governing principles of the Ottoman state. The

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Empire's legal system was a result of these attempts to lay the foundations for successfully ruling a heterogeneous country. The basis of this legal system was Islamic religious law – Sharia law – which certainly enjoyed unquestionable prestige within the ideology of the state. In theory, the state authorities were entitled to only implement and preserve, not change or amend, this legal corpus – whose sources were Islam's Holy Book, the *Quran*, and the *Sunnah* or tradition of the prophet Muhammad's practices and sayings. In addition, the Ottomans also accepted legal analogies and unanimous conclusions by legal experts among the fundamentals of their religious law. Therefore, only individuals with a theological-legal education – the *ulama*[2] – were authorized to interpret Sharia law. Islamic law recognizes four traditional schools of interpreting Sharia law, all of which were mutually equal: Hanafi, Maliki, Shafi'i and Hanbali, named after the distinguished legal experts who founded them. Muslims in the Empire were free to choose legal counsel from any of these four schools. The Hanafi school, however, was officially recognized by the state and its legal interpretations were applied in *kadi* courts. This was because Hanafi legal experts were somewhat more flexible in interpreting certain legal provisions, such as the status of non-Muslims.

According to the view on law espoused during the time when Sharia provisions were being formulated, the first question to be asked was always whether or not an action or relation was contrary to the religious or moral code. If there was no such conflict, then legal technicalities were of little importance to the faithful. From the very beginning, this allowed the possibility of adopting, and later adapting, legal provisions and administrative institutions from areas which gradually succumbed to Muslim rule, while also enabling teh creation of new legal solutions through consensus [Schacht 1982: 19–20, 65–71; Imber 2002: 216–225]. Islamic legal experts invested enormous efforts in interpreting different legal provisions, frequently debating fictitious cases which were unlikely to ever happen. This made it possible to find ways for certain practices, which could be deemed contrary to Sharia law, to be wrapped in an acceptable legal framework. Examples of this are interest collection and the particularly important question of evidence in criminal proceedings [Gerber 1994: 15–16]. The latter namely pertained to formalizing the use of written documents as evidence, given that Sharia law gave absolute advantage to oral testimony. Because of this, participants in lawsuits aimed to secure witnesses who would confirm the veracity of the information written in documents [Gerber 1994: 37–38, 47–48; Ergene 2004: 473–474]. Another important kind of witness – unique to the Muslim courtroom – were witnesses of the judiciary act itself (*şuhud ul-hal).* The şuhud ul-hal were not present to offer a testimony regarding the case before the kadi, but instead to ensure that the legal proceedings were properly conducted and to vouch for this by having their names recorded following the judicial ruling. Moreover, since kadis were officials appointed

[2] The ulama (sing. alim) is the collective term for individuals educated in Islamic theology, and who were entitled to work as teachers, kadis (magistrates), legal experts and religious dignitaries. Given that they were paid for their services by the state, they were exempt from taxes i.e. belonged the class of asker. [Ágoston 2009: 577–578]

by the central authorities for a specific period, they had limited knowledge of local circumstances; thus, the presence of both local dignitaries and people knowledgeable about the case being presented, aided the operation of the courts. Non-Muslims were also allowed to serve as *şuhud ul-hal* in instances when the *kadi* deemed it necessary [Jennings 1978a: 143–145; Jennings 1979: 162; Ergene 2003: 25–30; Крешић 2014: 28–33].

As previously emphasized, the legal system of Islamic states did not exclusively consist of Sharia law, but rather allowed secular law to evolve parallel to religious law, with the latter providing the overarching legal framework. This secular law – or *kanun* – developed in combination with traditional legal provisions from the pre-Islamic period. Continuing the practice of previous Islamic states, the Ottomans only furthered this system. The ruler created new laws which did not replace but merely supplemented Sharia law. The adoption of various legal and judicial traditions from the peoples they conquered gradually increased the complexity of the Ottomans' legal system. This constant adaptation of the judiciary enabled more efficient rule, and enhanced adaptability to the diverse circumstances throughout the state. It should be noted that certain legal provisions from conquered states found their way into the Ottoman legal system, and that the Ottoman authorities allowed a judicial autonomy of sorts for its non-Muslim subjects.

Zimmis[3] were allowed to resolve disputes either by reaching an agreement or by taking their case to a church court or a rabinnical court. Of course, this was on condition that no Muslim was involved in the dispute; otherwise, the case had to be brought before a *kadi*. It is important to stress that within the Islamic legal framework the state automatically launched court proceedings only for so-called crimes against God (*hudud*). Mostly, these involved religious violations and pertained to zimmis mainly in cases of theft or armed robbery. All other infractions were seen as private disputes between two sides, hence settling a dispute through agreement was quite widespread. Even so, Zimmis did not always use the privilege of settling disputes on their own, appealing to kadis even when it was not required – a practice that can been explained in several ways. Firstly, as a state institution the kadi court could, at least in theory, guarantee that its decisions – unlike an agreement reached within a community – would be implemented by the central authorities. Also, the practice of recording and issuing written confirmation of a kadi rulings facilitated the process of providing evidence should another dispute arise over the same issue. In addition, Zimmis would occasionally conclude that applying Sharia law would ensure a more favorable outcome for their case. [Jennings 1978a: 250–255; Gradeva 1997: 40–41, 57–62; Al-Qattan 1999: 432–436; Kermeli 2012: 347–351] Karen Barkey, however, notes that "the image of multiple autonomous court systems is inaccurate because the policy of legal pluralism was organized

[3] The term *zimmis* (or *dhimmis*) refered to members of monotheistic religions who recognized the authority of Muslim rulers and payed a special tax (the *jizya* tax). In return, the state protected them, their property and their personal and religious freedom. However, by imposing numerous restrictions, rules of conduct and dress codes, the state made it apparent that *zimmis* were not equal to other Muslim subjects [Фотић 2005: 27–71].

and controlled by the center, with the goal of presenting diverse options while protecting the kadi court's topmost position." This ensured the autonomy of different communities and also allowed the firmly set interreligious barriers to be crossed when needed [Barkey 2013: 84, 93–94].

The kadi court was the most important institution for implementing legal provisions. With their education in theology and law and authority granted by the state, kadis were entitled to provide rulings based on both religious and secular law. Although abuses were possible, kadis were, in theory, guaranteed full autonomy from the provincial – and central – authorities; orders from Istanbul could only mandate a retrial or transfer of a case to a different kadi – not dictate how a kadi should rule. [Heyd 1967: 10–11; Jennings 1978b: 138–142; Ginio 1998: 191–200; Imber 2002: 216–225] Kadis were tasked with more than presiding over legal proceedings. Each order sent to the province had to be entered into the *sicil* – a special kind of registry kept by the local kadi. As mentioned above, the kadi also recorded all his rulings in the sicil, as well as every contract concluded in court. Kadis had ties to the provincial administration and its officials, especially with regards to keeping local order, supplying the army, maintaining roads and fortifications and collecting taxes [Gradeva 1999: 179–187].

Such diverse and broad authority lent the kadi court a special position among state institutions and made it a kind of symbol of state authority among the sultan's subjects. By merging state, legal and religious authority, kadis became the key intermediaries between the central authorities and the provincial population. Given that the concept of justness was critical to a ruler's legitimacy in the Ottoman Empire, it is apparent that kadis both symbolically and practically enabled the ruler's authority to be implemented in the provinces. Islamic philosophical theory specifically highlighted the importance of each person and social group (the army, ulema, re'aya[4]) having a clearly defined place within the state, the ruler's responsibility being to ensure their safety and wellbeing through just rule. The ruler could not rule without the army's might, while the army, in turn, could not exist without wealth; this wealth was produced by the reaya, thanks to just rule; the rule of justice was impossible without harmony – predicated on the rule of religious law, which, in turn, was fundamentally based on the sultan's rule. This interrelationship constituted to so-called *circle of justice*, one of the basic tenets of Islamic political ideology. Legitimizing the sultan's rule in this way was particularly important in the Ottoman Empire because the House of Osman – despite various attempts to fabricate heritage – did not boast any ties to previous Islamic ruling families or the prophet Muhammed. Hence the need to underscore the efficiency and strength of the sultan's rule as the basis for his authority [Aksan 1993: 53–55; Gerber 1994: 63–64; Karateke 2005: 18–23; Hagen 2005: 65–66; Barkey 2013: 90–91].

In a system where the ruler was the main protector and enforcer of justice, the institution of appeal had a naturally significant role. Drawing from Islamic tradition, but tribal heritage as well, every subject, regardless of their religion, social group or location within the Empire, was guaranteed the right

[4] In the Ottoman Empire, the term *re'aya* was used to denote all imperial subjects who paid taxes and were not part of state institutions. [Faroqhi 1995: 403–406]

to bring a request or plea before the sultan himself [Karateke 2005: 38–39]. This could be done in person, by traveling to Istanbul, or by a written petition called *arz-ı hal*. Each petition passed through a bureaucratic appartus which checked its information against documents available in the central archives and then forward it usually to the Imperial Divan[5] or, in exceptional occasions, to the sultan himself. An order was issued based on all the collected data and sent most commonly to the kadi in whose jurisdiction the petitioner lived.

During the late transitional period (the mid-18th century), the appellate system swiftly expanded to such proportions that it is often considered not an institute of appeals in the classic sense but rather a completely new institution – the ahkâm administration. The question is whether this occurred due to increased local pressure or because the central authorities introduced the new system as a fresh means of legitimizing themselves in the eyes of their subjects during a time of decentralization. Since imperial visibility needed to be ensured in any way possible, the enhanced appellate system could be seen as yet another invention of the central government. On the other hand, appeals were increasingly used to provide legitimacy for those defeated in battling the ruling regime locally. The appeals process in the Ottoman Empire has yet to be thoroughly and systematically studied. During the late 1980s and early 1990s, leading 20th-century scholars in Ottoman studies Halil İnalcık and Suraiya Faroqhi insisted that such research would be of global value, yet their opinion met little interest until the early 21st century. Initially, it was believed that the expansion of the ahkâm administration was caused by patrimonialism or, as defined by Fatma and Ramazan Acun, an extreme form of patrimonialism called sultanism. Over time, theories proposing a centralized bureaucracy that strived to develop methods for controlling the Empire's territory were gradually abandoned. In their stead arose notions that Ottoman appellate policies where shaped by judiciousness or were even an expression of pragmatic rule. There were several diplomatic forms of şikâyet registers, including ahkâm registers[6]. First, as İnalcık points out, there were arz-ı hal or original appeals, which were mostly submitted to a kadi, or one was at least so supposed. Early ahkâm registers, dating from the 16th century, significantly differ from later ones (post-1742) in both diplomatic and paleographical traits. [Acun 2007: 125–131; İnalcık 1988: 33–54] In addition, the purpose of the later registers had also somewhat changed. While the underlying goal of asserting the legitimacy of the authorities remained, two new elements arose: the need to control provincial factions and the increased importance of bureacracy. The latter is a well-known issue in Ottoman studies, but the ahkâm administration's expansion was never linked to the strenghtening of the position of the reis ül-küttâb[7],

[5] The Imperial Divan was the highest governing body of the Ottoman Empire. Sources also mention the synonyms Sublime Porte or Imperial Council. As of the late 18th century, the term Sublime Porte referred to the office of the grand vizier, while Imperial Council was used for other institutions of state government which had their own *divan*, such as the *beylerbey*, *sancakbeyi*, and the *ağa* of the Janissaries.

[6] Registers of the Ottoman grievance administration.

[7] Literally 'chief of scribes' or 'head clerk'. (Translator's note)

who was directly charged with controlling these affairs. During the second half of the 18th century, the institution of reis became a recruiting station for the highest positions in the Ottoman government and was virtually a mandatory stepping-stone for any future vizier. Political struggles surrounding this key position intensified over time, while the offices within the Porte began increasing the complexity of their protocols and, more importantly, began bureaucratic expansion[8]. The principle of justness served as an excellent mechanism for highlighting the importance of a bureaucratic process which began inventing tradition. In the early 16th century there was hardly a single grievance filed in the Sancak of Semendire, while an average of one – four at most – arrived annually from the sancaks of Rumeli. [Acun 2007: 135–136] By the mid-18th century, however, the number of appeals from Semendire was no less than twenty a year – reaching as many as fifty – while there were over one thousand appeals from the Rumeli region annually. So far, historiography has not yet examined the causal relationship between the expansion of the appellate system and the bureaucratization of the Ottoman government. Although archival materials are an often unrelieable ally and are frighteningly unforthcoming when it matters most, one gains the impression that despite all the prerogatives of apsolute power in a sancak granted to a vizier, the central authorities nevertheless managed to develop mechanisms of indirect control. As Nora Lafi concludes, the ahkâm administration enabled direct contact between the urban elite and central administration. [Lafi 2011: 73-82]. What demands further examination is whether there existed direct contact between the local bureaucracies and central apparatus where part of the local administration directly or indirectly served the interests of the central authorities.

The upsurge in appeals coincides with the most pronounced degree of decentralization on the periphery of the Ottoman Empire, especially in Rumelia. These turbulent times – marked by riots, the overthrows of local governments and political clashes between various groups over the positions of vizier and vali[9] – demonstrate that launching the complex process of appeal could not be a personal, independent initiative, because every complaint meant challenging the authorities, the vizier and, even more dangerously, their representatives in the local community, where human life held less value and was easily lost before an appeal even left the province. The system obviously ensured safety for itself. This reflects a certain complexity of both local relations and relations between the center and periphery. In a system where local authorities had absolute local power, it would seem impossible for any complaint to be lodged without some kind of patronage – because any complaint was necessarily against the executives of local government, who increasingly controlled the kadi i.e. the only person who could, according to the Ottoman understanding of

[8] The entire grievance administration, as well as registers of the imperial orders (mühimme) were under the purview of the Beylikçi office (officially known as the Divan-ı Hümayun Kalemi) [Ahıshalı 2001].

[9] During this period sancakbeyis were called viziers and beylerbeys were called valis. The term pasha is frequently found in colloquial use for both of these Ottoman provincial leadership positions. A pashalik was the jurisdiction of a pasha.

Islamic law, overturn a court ruling. Individual appeals frequently masked the interests of a more powerful patron, whose interests were somehow threatened and who pressured the bureaucratic process by having his sattelites file numerous individual complaints. In most cases, an individual was protected in challenging a segment of the government merely by belonging to a group (*sipahi*, Janissaries, *yerli*[10], etc.). Every such public action represented an invocation of the principle of group visibility, a form of political representation for the group where the actual outcome of the appeal was frequently of little importance to those who lodged it. At the same time, it should be noted that it was just as common for the interests of individuals to be served under the protection of a group. The numerous appeals filed by sipahi (and even zaims) demanding new estates due to the depopulation of their previous ones cannot be viewed as an initiative of individuals independent of politics. Namely, because this practice became widespread and evolved into a bureaucratic mechanism of influence. Although it may so seem from individual documents, the sipahis' petitions did not constitute independent cases but were rather part of a mechanism which guaranteed them certain rights tied to their status. The policy of the central government, which sought to create a system that would guarantee that timar dues be paid, was a central issue between the center and periphery. Tax registers shows that it was impossible to meet projected farming outputs, but the ahkâm registers indicates the existence of an entire land administration and a complicate bureaucratic mechanism formed to strengthen the sipahi locally. [TKGM. TADB. TTD. No. 17; No. 18]. Given that the sipahi were a realiable opposition to local power structures, it is likely that the central authorities supported the group whereby they directly meddled in the periphery's proto-political conflicts. By weakening the legitimate ruling strucutres in provinces, the central powers curtailed the periphery's independence while at once casting themselves in the role of necessary supreme arbiter.

Recently, the overt state-centered perspective in Ottoman studies has been criticised, in light of which the appeals system must also be considered in terms of the provinces' attempts to act independently of the central authorities. By recognizing the autonomy of these actions, even as mere initiatives sent to the central government, one raises the issue of the proto-civil society as defined by Antonis Anastasopoulos. Acknowledging the sociological aspect of this term, historians have adopted Jürgen Kocka's definition, whereby civil society represents a particular kind of social action. [Kocka 2004: 68–69] From this perspective, the Ottoman Empire's subjects are viewed through the prism of their actions – which are considered authonomous. Firstly, this undermines the paradigm in which the centre is omnipotent and controls the provinces' every

[10] Sipahi were soldiers, predominantly cavalry, who received the right to collect income from an estate called a timar in exchange for military service. Janissaries were members of the standing army, trained by the state and deployed as needed across imperial provinces. By the 18th century, sipahi nearly lost any military significance, while, thanks to their constant increase in number, Janissaries ceased being elite troops recruited through the devşirme and became an important political factor. On the other hand, yerli were units comprised of provincial populace drafted by the provincial authorities. [Imber 2002: 252–286]

action, and everything the periphery does is reduced to an elicited reaction. It becomes no longer possible to see the Ottoman bureaucratical appartus as a long arm of the government or supreme arbiter. The socio-political changes precipitated by the decentralization process in turn led to the emergence of para-governmental structures, whereby the balance of power was constantly prone to shifts. Certain groups frequently masked their actions under the seeming legitimacy of the old system, whose place they assumed sometimes legally, sometimes less so. What is clear is that these groups had far more autonomy than was believed before. The members of the administrative system employed the existing institutional framework merely to cloak their own political agendas. The more a power structure – no matter how marginally local – constituted a true simulacrum, the more important it became to assert its legitimacy. It is no coincidence that political activity is so closely tied to the concept of legitimacy, as Suraiya Faroqhi suggests. Therefore, the very manner in which appeals were launched and led indicates the social significance of this institution. It is highly unlikely that those submitting petitions to the sultan believed that justice would be served. Anyone acquainted with the Ottoman legal system knows that a court of higher instance could not change a ruling but merely suggest it be reconsidered. This leads one to conclude that appeals were merely a form of political demonstration, aimed at ensuring additional legitimacy during court proceedings – and pressuring the local kadi and all stakeholders into action. The way in which the appeals system was somewhat institutionalized shows that the process of political activity in pre-political societies was dependent not only on local conflicts but also on the autonomous actions of social formations that could change their social status and political role. The circumstances in which these processes originated are called the proto-civil society, and its formations are in keeping with Kocka's definition based on the principle of self-organization [Faroqhi 1992: 1–39; Anastasopoulos 2012: 440–450].

In the context of analyzing social formations, it is important to consider Michael Mann's thesis according to which society constitutes "multiple overlapping and intersecting socio-spatial networks of power." While it is emphasized that society should be analyzed as an autonomous formation, it is also necessary to avoid a unitarian approach since society is neither a system nor a totality. One should cease to view local communities as a monolith reacting to stimuli from the central government, and instead see them as social actors which not only act autonomously but initiate historical processes. [Mann 1986: 1–2] As Boğaç Ergene underlines, individuals join various networks of power, which provide a social matrix of interests and alliances based upon them. Ergene points out it is impossible for administrative formations to exist outside of a certain social consensus. More importantly, Ergene maintains that the legitimacy of the kadis had to be based on communal approval of their actions – just as prominent locals could not remain beyond the structures of the authorities. Similar interpretations open the possibility of approaching the appeals system as a specificity indicator for social conflicts caused by the political battles of various power networks. As Eleni Gara notes, by 1770 the system of political representation by ayan or kocabaşıs reached such a level that it was necessary

to invent tradition. The strengthening of political elites caused conflicts to escalate so much that it is usually impossible to discern where political protests stopped and where fractionalism began [Ergene 2012: 391–394; Gara: 412, 416–417].

Filing an appeal began with hiring an educated person to first compose the appeal. While it was necessary to pay for this service, it was not difficult to find legal experts given that petitions were filed by the denizens of cities and towns. Educated experts roamed the provinces in search of work due to a shortage of postitions within the administration. Appeals were also frequently composed by mollas, given that they were esteemed legal scholars. The appeal itself could be presented to the Imperial Divan in person or it could be sent as a letter/appeal (mektup/arzuhal) with the proper escort, which certainly made the entire process more expensive. The form of delivery was noted in the ahkâm registers themselves, with either *sent* (mektub gönderüb/ arzuhal edüb) or *received* (gelüb). The original documents were archived in special şikâyet archives, while response outlines were entered into ahkâm registers, which were kept after 1742, according to a province, i.e. eyalet, of provenance. There is significant difference between the terms letter and arzuhal. The former was composed by a learned expert outside of the legal system, while the latter was issued by a kadi. Securing a kadi's agreement to enter a complaint into a sicil – judicial protocol – was certainly more difficult but also important in terms of legitimacy and political rivalry. Examples of this are not rare. As Demetrios Papastamatiou suggests, the local kadi need not have necessarily been the one to issue an arzuhal: instead, stakeholders could approach a neighboring kaza, thus fanning local rivalries. Narrative sources claim that control of kadi's office was absolute – which itself should be accepted with reservations – yet those same narrative sources claim that the position of kadi was practically auctioned off to the highest bidder for a given time period. The fact that the office of kadi was rented out allowed kadis more maneuvering space, since they could disregard the power of the vizier and focus on local circumstances instead. Clearly, viziers controlled the provinces via müsellim and subaşı[11], but a kadi could lend legitimacy to complaints and the appeals process itself [Papastamatiou 2012: 172].

The appeals lodged with the Imperial Divan all followed a similar legal and bureaucratic format, highlighting injustice and oppression (zülm) as the reasons for addressing the state's highest legal institution. In fact, each complaint is merely a reiteration of certain frequently used phrases requesting intervention, which cannot be interpreted beyond the context of bureaucratic practice, formalized address and citing an official, legal cause further elaborated in the body of the letter. Any petition to the Imperial Divan was predicated on an assumed injustice, for which legal sanctions were requested. Unlike older documents – which put emphasis on one of two very different terms, Sharia law and the kanun – appeals from the transitional period referred equally to both religious and secular law, using them in conjunction to denote a unified

[11] A müsellim was a local administrative official subordinate to the vizier; a subaşı was an administrative-police officer in smaller settlements appointed by the vizier.

legal system. Particularly interesting are the Divan's responses to the complaints. Open interference in provincial issues was rare. Instead, orders were issued using the formulation *to prevent and prohibit interference /in said issue/ it is honorably ordered that* (müdahale ettirilüb men' ü def'[12] olunmak babında emr-i şerifi) or, similarly, *to prevent and prohibit upsetting* (ta'addileri men' ü def' olunmak babında hükm-i hümayunum)*, outside interference, tyranny and injustice are prohibited* (ahardan dahl olunmak icab etmez, zülm ü ta'addi). The Divan declaratively prohibited infractions against the legal system but generally did not interfere in individual cases, assigning the task instead to the local kadi: */let that/ which is unlawful be considered in keeping with Sharia law and /let/ the law be maintained* (mahallinde şer'ile görilüb ihkak-ı hak olduğu). The independence of the kadi's office could easily have been an excuse for the higher authorities to do nothing. During earlier periods in Ottoman legal history, it was much more frequent for the Divan to interfere significantly in local affairs and to annul a kadi's ruling. A particularly sensitive subgroup of appeals referred to the oppression of someone in power or instance of abuse of institutional power. These actually were extreme cases of injustice, especially if the complaint was lodged by local commoners – the re'aya. While the documents most frequently employ the formulations *zülm and injustice*[13], *injustice and injury* (ta'addi ve rencide), complaints against power abuse also used the quite strong term *legal repression* (hak-ı müzalem). It seems that the central government lacked an efficient mechanism for controlling the entire appeals process and that, as a result, any attempt it made to offer support was reduced to mere declarations. An order sent to the province, however, could strongly contribute to an appeal's legitimacy in the eyes of the local administration and in further administrative proceedings [Павловић 2017: 328; BOA. A. DVNS. AHKR. d. 3/820]. Rarely, a mübaşir was appointed – a representative of the state tasked with further investigating the case. Cases which drew special attention from both the state and local authorities were problems regarding timar estates. At least one-third of all complaints lodged [during the transitional period] referred to the issue of so-called small timars (erbab-ı timar), where an intervention by the authorities was a given. This was expected, on the one hand, because the issue was within the purview of the central administration – which assigned timars. If a sipahi-timariot could not achieve the projected returns from his timar, which was determined from the tax registers – the ahkâm administration exchanged timars. It is unknown how efficient this approach was, especially considering that the sipahi were no longer considered formal members of the military, but rather a social group rewarded with a very low rent for their timars – which was frequently difficult to collect in full. Particularly sensitive were cases of usurpation, where a sipahi complained that his rights, granted by a certain document, were usurped. Aside from the issue of timars, such appeals – filed by beratlı or persons owning documents confirming their status or rights which were violated (regardless of the kind of

[12] Frequently accompanied by another synonym: ta'arrüz.
[13] Frequently accompanied by the synonym gadr (injustice, tyranny).

document and rights it granted) – were met with positive responses that were conveyed to the local administration in the same manner as all others. In other words, the Divan would determine that the rights cited were indeed violated and then order the local government to take action in accordance with the law, whatever that may be. Two interesting paradoxes bear mentioning: affirmative responses and the simplicity of bureauractic langauge [BOA. A. DVNS. AHKR. d. 6/922, 6/456. 6/145, 6/148].

Generally speaking, political initiatives of the time could be categorized into those made by members of the ruling group (askeri) and those by the local populace (re'aya). The former comprise two basic types: a member of the ruling class, usually a member of the military, lodges an appeal either because he cannot fully realize his right to a certain privilege (income from a timar, tax farms) or because his rights have been completely usurped (timar seizures, financial fraud, inheritance issues etc.). These two types of cases seemingly have no correlation and should be analyzed separately. The many possible issues with inheritance actually bear no direct link to a person's proprietary-legal status. The relatives of a deceased person who invested in business in the province would request a return of assets neglecting the fact that the deceased was a member of the Janissaries and that, therefore, his life and property belonged to the state. The problem was the status of Janissary, which numerous merchants and entrepreneurs held nominally for the sake of social privilege and tax exemption. The heirs of such individuals did not expect the state administration to strictly abide by the kanun in these cases. The inability to fully collect money – be it income from a timar or tax farming – mostly led to individual cases and private lawsuits. The complete usurpation of these rights, however, was possible only with the permission of local authorties. The fundamental battleground, thus, became the timar, but also taxes farmed through the iltizām system[14]. Given that the taxation system operated by farming taxtion rights via auction, cash flows originated when farming rights were bought or when loans for tax farms were issued. The group of privileged power holders accused in appeals of abuse of power, zülm and tyranny grew increasingly noticeable, acting brazenly even in the presence of local kadis. This group acted on orders (*buyuruldu*) of the local government, the vizier and the Belgrade Divan. In the Ottoman legal system, documents issued by the central authorities in theory held precedence over those issued by the local administration, but provincial appeals were the result of this rule being neglected. In the provinces, buyuruldu were accepted as absolutes, which led to legal chaos and increased legal uncertainty. The lodging of these appeals testifies to direct opposition against the regime for the purpose of seizing power in a regime change. The defeated, therefore, aimed their political activity toward securing a position in some future government. [BOA. A. DVNS. AHKR. d. 11/560].

In addition to initiatives launched by the ruling class, it is also important to consider the intiatives of the local populace. As in the case of the former,

[14] The Ottoman taxation system during the transitional period was based on the farming of public revenue, the rights to which were auctioned to the highest bidder either temporarily (mukata'a) or for life (malikâne).

individual initiatives were the result of support from a more powerful group or institution. Namely, in such cases a headman (*knez*) – an elder tasked with collecting tax money and submitting it to tax farmers – was behind the petitioner. Any abuse of the iltizām system directly cost the headmen, which is why they had established communication channels with the central government via the institution of appeals. Most likely, this was the job of a professional group of representatives who took appeals before the Imperial Divan once they received the proper signal from the field i.e. the headmen. Although the documents themselves bear the names of the peasants damaged, the cases were actually handled by "semi-professional representatives". The most common problem cited by the representatives of the local populace was debt, or specifically the system of collective waranty and taxation abuse, namely overtaxation. The appearance of the re'aya and its representatives in the ahkâm administration demonstrates that this social class recognized the significance of this administrative mechanism and used it to fight for its own visibility. [BOA. A. DVNS. AHKR. d. 22/536; 22/552; 22/618].

The appeals system of the Ottoman Empire represents an institution of Islamic law in the context of system where justness was the ruler's fundamental duty. This institution, however, underwent expansion during the late transitional period, when the process of decentralization led to new forms of communication between the center and periphery. According to the theory of empires, it can be concluded that negotiations of a sort yielded an innovative mechanism for the center's control over the periphery, be it only in asserting the legitimacy of the authorities and legality of institutions and informal groupings. For local petitioners, appeals served as a channel for achieving representation of their own identities in the fight to join the ranks of the ruling class. The interference of the central authorities in these processes served to maintain the illusion of imperial control and imperial presence in the periphery, which the center could no longer effectively control. By determining common interests, the subjects of the Ottoman Empire shaped a mechanism of communication which enabled them to achieve their own goals and interests via a new form of negotiation with the center of the Empire.

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