

# Unveiling the Cretan Land Regime: Insights from Minkârîzâde Yahyâ's Fatwas

Özgün Deniz Yoldaşlar\*

*Girit Toprak Rejimini Aydınlatmak: Minkârîzâde Yahyâ'nın Fetvalarından İçgörüler*

Öz ■ Köprülüler Devri'nde (1656–1683) kuzey sınırları haricinde tek askeri sefer 1669 yılında teslim olan Girit'teki Kandiye'ye yönelik gerçekleştirilmiştir. 1670 yılında hazırlanan *kânûnnâme* ile birlikte Girit adası toprakları Osmanlı İmparatorluğu'nda yaygın olan *mîrî* arazi olarak değil de *harâcî* olarak belirlenmiştir. Adada uygulanan ve istisnai gibi duran bu durum çeşitli tarihçiler tarafından incelenmiş olsa da, bu konu 1662–1674 yılları arasında şeyhülislamlık yapmış olan Minkârîzâde Yahyâ'nın fetvaları ışığında ele alınmamıştır. Bu makale, literatürdeki bu boşluğu doldurmak amacıyla Girit'in 1669 yılında Osmanlı İmparatorluğu tarafından nihai olarak fetvedilmesinin ardından adada uygulanmaya başlanan toprak rejimini, Minkârîzâde Yahyâ'nın fetvalarını inceleyerek yeniden kavramsallaştırmayı amaçlamaktadır. Bu bağlamda, makalenin iki temel hedefi vardır. Bunlardan ilki, Girit ile ilgili fetvaların genellikle Mentешzâde Abdurrahîm'e (ö. 1716) atfedilenlerinin Minkârîzâde'ye ait olduğunu tespit etmek; ikincisi ise Girit'te uygulanan toprak rejimini 17. yüzyılda şeriatın Osmanlı kanununa üstün gelip gelmediği sorusu etrafında incelenen mevcut literatürdeki yerinden alarak, "mülk sahiplerinin ölümü" olarak bilinen tarihsel tartışmanın merkezine taşımaktır.

Anahtar kelimeler: Osmanlı Girit'i, Minkârîzâde Yahyâ, Fetvalar, *Harâcî* Toprak Rejimi, *Kânûnnâme*.

## Introduction

The Ottoman Empire encountered a series of crises in the mid-seventeenth century. One of these crises was triggered by the Venetian blockade of the Dardanelles and the financial strain resulting from the prolonged Cretan campaign

---

\* Üsküdar Üniversitesi.

that started in 1645, leading to the depletion of the treasury. As a result, a series of rebellions and political instability emerged in both the imperial capital and the provinces.<sup>1</sup> Between the years 1648 and 1656, a minimum of four urban uprisings occurred, resulting in the execution of Sultan İbrahim I and his mother Kösem Sultan, as well as the dismissal of numerous high-ranking state officials, including the grand vizier, chief admiral, and chief jurist. These revolts were not solely instigated by the janissaries; other actors such as members of the ulama, cavalryman, palace officials, artisans, and tradesmen also played a significant role. Collectively, these events had a more profound impact on Ottoman politics in the mid-seventeenth century than is often acknowledged.<sup>2</sup> The final rebellion among these uprisings, known as the *Vak'a-i Vakvakıyye* (The Plane-tree Incident) of 1656,<sup>3</sup> instilled significant fear in the Ottoman rulers. As a result, in September 1656, Valide Sultan Hatice Turhan appointed Köprülü Mehmed as the grand vizier, with the stipulation that no one would impede his decision-making authority.<sup>4</sup>

- 1 Caroline Finkel, *Osman's Dream: The Story of the Ottoman Empire 1300–1923* (London: John Murray Publishers, 2005), pp. 223–52; Cemal Kafadar, “The City that Râlab visited: The Political and Cultural Climate of Istanbul in the 1650s”, *The Sultan's Procession the Swedish Embassy to Sultan Mehmed IV in 1657–1658 and the Râlab Paintings*, ed. Karin Ådahl (Istanbul: Publication of Swedish Research Institute in Istanbul, 2006), pp. 58–73; Gülay Yılmaz, “The Economic and Social Roles of Janissaries in a Seventeenth-Century Ottoman City: The Case of Istanbul” (PhD diss.), McGill University, 2011; Marinos Sariyannis, “The Kadızâdeli Movement as a Social Phenomenon: The Rise of a ‘Mercantile Ethic’?”, *Political Initiatives ‘From the Bottom Up’ in the Ottoman Empire, Halcyon Days in Crete VII, 9–11 Jan. 2009*, ed. Antonis Anastasopoulos (Rethymno: Crete University Press, 2012), pp. 263–89.
- 2 Cemal Kafadar, “Janissaries and Other Rifraff of Ottoman Istanbul: Rebels Without a Cause?”, *Identity and Identity Formation in the Ottoman World: A Volume of Essays in Honour of Norman Itzkowitz*, eds. Baki Tezcan and Karl K. Barbir (Wisconsin: University of Wisconsin Press, 2007), pp. 113–34; Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (Cambridge: Cambridge University Press, 2010), pp. 213–44.
- 3 Hrand D. Andreasyan & Fahri Çetin Derin (eds.), “Çınar Vak'ası (Eremya Çelebi Kömürçüyan'a göre)”, *İstanbul Enstitüsü Dergisi*, 3 (1957), pp. 57–83.
- 4 Metin İ. Kunt, “The Köprülü years: 1656–1661” (PhD diss.), Princeton University, 1971, pp. 50–60; Leslie Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (New York: Oxford University Press, 1993), pp. 255–8; Cumhuriyet Bekar, “The Rise of the Köprülü Family: The Reconfiguration of Vizierial Power in the Seventeenth Century” (PhD diss.), Leiden University, 2019, pp. 67–78.

Following his appointment as grand vizier in 1656, Köprülü Mehmed effectively implemented measures aimed at suppressing any potential sources of opposition and diminishing the emerging alternative centers of power within the Ottoman domains.<sup>5</sup> To this end, he exiled prominent figures of the Kadızadeli, namely Üstüvânî Mehmed, Türk Ahmed, and Dîvâne Mustafâ, to Cyprus.<sup>6</sup> In addition, Köprülü Mehmed faced various internal and external challenges, including the task of lifting the Venetian blockade of the Dardanelles and suppressing the uprisings led by George Rackozy II and Abaza Hasan.<sup>7</sup> Despite the challenges faced during the early years of Köprülü Mehmed's tenure as Grand Vizier, both he and his successors were able to establish a significant political stability that lasted until the unsuccessful siege of Vienna in 1683. This period, spanning from 1656 to 1683, is commonly referred to as the Köprülü era in historical literature.<sup>8</sup> The key factor contributing to this periodization is the dominant role played by three members of the Köprülü family —Köprülü Mehmed (ruling from 1656 to 1661), Fâzıl Ahmed (ruling from 1661 to 1676), and Kara Mustafa (ruling from 1676 to 1683)— as grand viziers during a significant portion of the latter half of the seventeenth century. The tenure of Fâzıl Ahmed Pasha (d. 1676), who served as grand vizier from 1661 to 1676, was characterized by a significant series of consecutive wars.<sup>9</sup> Fâzıl Ahmed Pasha personally led various military campaigns during his time in office, including conflicts against the Habsburgs from 1663 to 1664,<sup>10</sup> the Vene-

5 For more information on the relationship between Köprülü Mehmet Pasha and Sultan Mehmet IV, based on relative mutual interest, see Cumhuriyet Bekar, “‘The Ottoman Revolution of 1661’: The Reconfiguration of Political Power under Mehmed IV and Köprülü Grand Viziers”, *Journal of Early Modern History*, 27 (2023), pp. 224–53.

6 Naîmâ Mustafâ Efendi, *Târih-i Na'îmâ (Ravzatü'l-Hüseynî Hülâsati Ahbârî'l-Hâfîkayn)*, vol. 4, ed. Mehmet İpşirli (Ankara: Türk Tarih Kurumu, 2007), p. 1710.

7 Kunt, “Köprülü Years”, pp. 50–127 and Bekar, “The Rise of the Köprülü Family”, pp. 79–104.

8 İsmail Hakkı Uzunçarşılı, *Osmanlı Tarihi*, vol. III, 8<sup>th</sup> ed. (Ankara: Türk Tarih Kurumu Yayınları, 2011), pp. 367–433; Stanford J. Shaw, *History of the Ottoman Empire and Modern Turkey*, vol. 1: *Empire of the Gazis: The Rise and Decline of the Ottoman Empire, 1280–1808* (Cambridge: Cambridge University Press, 1976), pp. 207–15.

9 Fâzıl Ahmed was said to have continued his father's policy of keeping imperial soldiers in action in order to avert possible military mutinies in Istanbul. See Paul Rycha, *The Present State of the Ottoman Empire* (Westmead: Greek International Publishers, 1972), p. 49.

10 For an examination of this war from the perspective of the Military Revolution Debate, see Özgür Kolçak, “XVII. Yüzyıl Askerî Gelişimi ve Osmanlılar: 1660–64 Osmanlı-Avusturya Savaşları” (PhD diss.), İstanbul University, 2012.

tians in Crete from 1667 to 1669, and the Poles in 1672 and 1673.<sup>11</sup> As a result of these military endeavors, the Ottoman Empire successfully captured three castles — Ērsekújvár, Candia, and Kamaniecz— and achieved its largest territorial expansion.

The Candia campaign, under the leadership of Grand Vizier Fâzıl Ahmed Pasha from 1667 to 1669, marked the culmination of the long-standing war between the Ottomans and Venetians for control over Crete, a conflict that had persisted for over two decades.<sup>12</sup> The siege of Candia stands out as the sole military campaign conducted by the Köprülü family beyond the northern borders.<sup>13</sup> In addition to the unique circumstances surrounding the siege of Candia during the Köprülü period, the conquest of this island and the subsequent promulgation of its *kânûnnâme* have become a highly debated topic in Ottoman historiography. Interestingly, although there have been many historians who have advanced various explanations regarding the changes in the land system of this island after its conquest, none of them have made an effort to explore the fatwa compilations of Minkârîzâde Yahyâ (d. 1678).<sup>14</sup> Given Minkârîzâde's position as the chief jurist

11 Mehmet İnbaşı, *Ukrayna'da Osmanlılar: Kamanice Seferi ve Organizasyonu* (1672) (İstanbul: Yeditepe Yayınları, 2004).

12 For more information on this topic, see Molly Greene, *A Shared World: Christians and Muslims in the Early Modern Mediterranean* (Princeton, N.J.: Princeton University Press, 2000), pp. 13–44; Ersin Gülsoy, *Girit'in Fethi ve Osmanlı İdaresinin Kurulması (1645–1670)* (İstanbul: Tarih ve Tabiat Vakfı, 2004); Ayşe Nükhet Adıyeke and Nuri Adıyeke, *Fethinden Kaybına Girit* (İstanbul: Babıali Kültür Yayıncılığı, 2007), pp. 15–54; and Ayşe Nükhet Adıyeke and Nuri Adıyeke, *Osmanlı Dönemi Kısa Girit Tarihi* (İstanbul: Türkiye İş Bankası Kültür Yayınları, 2021), pp. 20–62.

13 Metin Kunt was the only historian to undertake initial research on the northern policy of the Köprülü family until the recent publications of Kahraman Şakul. For these works, see Metin İ. Kunt, “17. Yüzyılda Osmanlı Kuzey Politikası Üzerine Bir Yorum”, *Boğaziçi Üniversitesi Dergisi*, 4-5 (1976–1977), pp. 111–6; Kahraman Şakul, *II. Viyana Kuşatması, Yedi Başlı Ejderin Fendi* (İstanbul: Timaş Yayınları, 2021), pp. 15–6, 24–53; Kahraman Şakul, *Kamanice Kuşatması 1672* (İstanbul: Timaş Yayınları, 2021), pp. 22–8; Kahraman Şakul, *Uyvar Kuşatması 1663* (İstanbul: Timaş Yayınları, 2021), pp. 12–4; and Kahraman Şakul, *Çehrin Kuşatması 1678* (İstanbul: Timaş Yayınları, 2022), pp. 20–4.

14 One noteworthy exception that can be mentioned in this regard is Eugenia Kermeli's article, in which she uses a series of fatwas issued or collected by Menteşzâde Abdurrahîm. As we shall see, however, these fatwas had actually been issued by Minkârîzâde. See Eugenia Kermeli, “Caught in between Faith and Cash: The Ottoman Land System of Crete, 1645–1670”, *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840 (Halcyon Days in Crete VI)*, a symposium held in Rethymno, 13–15 January

between 1662 and 1674, his fatwas concerning this land regime assume greater importance when examining the issue from a legal standpoint.

The main objective of this article is to address the existing gap in the relevant literature by critically examining the fatwas of Minkârîzâde. By doing so, it challenges previously unquestioned generalizations that the land regime in Crete was solely *harâcî*, brings nuanced perspectives to the literature by considering various historiographical debates, and sheds new light on the subject by incorporating additional details derived from the fatwas issued during and after the conquest. In line with these objectives, this article seeks to accomplish two main goals by examining the fatwas of Minkârîzâde Yahyâ. The initial goal of this article is to demonstrate that the Crete-related fatwas attributed to Menteşzâde Abdurrahîm (d. 1716), who is believed to have compiled one of the most authoritative fatwa compilations, actually belong to Minkârîzâde Yahyâ. The second aim of this article is to bring the Cretan land regime, which has so far been analyzed around the question of whether sharia prevailed over Ottoman *kânûn* during the seventeenth century, to the center of the historiographical debate known as the “death of the proprietors.” Before delving into these debates, it is essential to first present an overview of the Ottoman classical land regime and discuss the relevant literature regarding the land regime implemented in Crete to better comprehend the issue at hand.

### **Ottoman Classical Land Regime**

There exists a considerably extensive literature on the Ottoman classical land tenure regime. One common aspect among all these studies is the undeniable significance attributed to Ebussuûd’s writings on the subject. Although Ebussuûd was not the first Ottoman scholar to explain the prevailing Ottoman system of land tenure and taxation, he was widely recognized as the leading figure in his attempt to describe the existing land system in great detail.<sup>15</sup> Indeed, Ebussuûd’s

---

2006, ed. Antonis Anastasopoulos (Crete: Crete University Press, 2008), pp. 1–32, at 25–9.

15 In this regard, as Snjezana Buzov rightly asserts, “...Ebus’s-su’ûd issued a number of *fatwas* which did not revisit the historical conditions of the Ottoman conquest, but rather offered a general definition of this category of land in the context of the available legal knowledge.” Quoted in Snjezana Buzov, “The Lawgiver and His Lawmakers: Discourse in the Change of Ottoman Imperial Culture” (PhD diss.), The University of Chicago, 2005, p. 82.

initial endeavor to elucidate the Ottoman land systems can be traced back to the land regulations formulated for Buda in 1542. These regulations were subsequently modified and served as a point of reference for subsequent land laws and later compilations of fatwas.<sup>16</sup> The following excerpts from the Skopje and Salonica register (1568),<sup>17</sup> which were formulated based on various fatwas by Ebussuûd, concisely capture the prevailing land system in the Ottoman Empire during the sixteenth century.<sup>18</sup>

At the outset it is to be explicitly stated that, in accordance with the sacred Sharî'a, there are three categories of land in the Islamic territories. The first is tithe land (*öşrî*) which are granted to the Muslims as their private property (*mülk*). It is legally their freehold property, to dispose of as they wish in the same manner as the rest of their properties ... The second category is *harâcî* lands, those which were left in the hands of the unbelievers at the time of the conquest. They are recognized as their freehold property (*temlik*). Tithe is imposed on these lands at the rate of one-tenth, one-eighth, one-seventh or one-sixth, up to one-half, depending on the fertility of the soil. This is called *harac-ı mukâseme*. In addition, they are subject to pay annually a fixed amount of money which is called *harac-ı muvaddaf*. This category of lands, too, is considered the legal freehold property (*mülk*) of their possessors, which they may sell and purchase, or dispose of in any kind of transaction ... There is a third category of land which is neither *öşrî* nor *harâcî* of the type explained above. This is called *ard-i memleke*. Originally it, too, was *harâcî*, but its *dominium eminens* (*rakaba*) is retained for the public treasury (*beytül-mâl-i müslimîn*) because, were it to be granted as private property to its possessors, it would be divided among his heirs, and since a small part would devolve on each one, it would be extremely difficult, perhaps impossible, to determine the share of *harâc* tax to be paid by each in proportion to the land in his

16 For the transliteration of this *kânûnnâme*, see Ömer Lûtfî Barkan, *XV ve XVI'inci Asırlarda Osmanlı İmparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları*, vol 1: *Kanunlar* (İstanbul: Bürhaneddin Matbaası, 1943), pp. 296–7.

17 The transliteration of this *kânûnnâme* can be found in Barkan, *Ziraî Ekonominin Hukukî ve Malî Esasları*, pp. 297–300.

18 Similar descriptions regarding the different land tenures in Ottoman lands can also be found in the *Sivas Kânûnnâmesi*; see Akgündüz, *Osmanlı Kanunnâmeleri*, VIII, 425–8. For similar passages in the *Kânûnnâme-i Cedid*, see Fatma Gül Karagöz, “The Evolution of Kânûnnâme Writing in the 16<sup>th</sup> and 17<sup>th</sup> Century-Ottoman Empire: A Comparison of Kânûn-i Osmânî of Bayezid II and Kânûnnâme-i Cedid” (MA Thesis), Bilkent University, 2010, pp. 218–9 (article 2); 219–21 (article 3); 222–3 (article 6); 224–5 (article 8); 227–30 (article 11); 333–4 (article 274). For Ebussuûd's two specific fatwas on this topic, see Akgündüz, *Osmanlı Kanunnâmeleri*, I, pp. 141–2.

possession. Therefore, such lands are given to the peasants on a lease (*âriye*). It is ordered that they cultivate them as fields, or make them into vineyards, orchards or vegetable gardens, and render *harâc-ı mukâseme* and *harâc-ı muvaddaf* out of the harvest.<sup>19</sup>

Based on this register, it can be concluded that the land system within the Ottoman state consisted of three types: *öşrî*, *harâcî*, and *arz-ı memleket*.<sup>20</sup> Notably, the distinguishing characteristic among these types was that *öşrî* and *harâcî* lands were granted as private property, while the state land (*arz-ı memleket*) belonged to the public treasury, and cultivators were granted only the rights of usufruct (*tasarruf*) over it. Furthermore, as this state land was owned by the public treasury, cultivators were prohibited from inheriting, selling, or endowing it as a *waqf*.<sup>21</sup>

19 Quoted in Halil İnalçık, "Islamization of Ottoman Laws on Land and Land Tax", *Essays in Ottoman History* (İstanbul: Eren Yayınları, 1998), pp. 155–73, at 157–8. The Turkish transliteration of the relevant passages is as follows: "Bir kısmı arz-ı öşriyedir ki hîn-i fetihde ehl-i İslâmâ temlik olunmuşdır sahîh mülkleridir Sâyir malları gibi nice dilerlerse tasarruf iderler" ... "Bir kısmı dahi arz-ı haraciye dir ki hîn-i fetihde keferenin ellerinde mukarrer kılınub kendülere temlik olunub üzerlerine hasıllarından öşür yahud sümün yahud subu' yahud südüs nısfâ değîn arzın tahammülüne göre *haracı mukaseme* vaz' olunub yılda bir mikdar akçe dahi *haracı muvazzaf* vaz' olunmuşdur Bu kısım dahi sahiblerinin mülk-i sahîhleridir Bey'a ve şirâya va sâir envâ'-ı tasarrufâtâ kadirlerdir" ... "Bir kısım dahi vardır ki ne öşriyedir ne vech i mezbur üzerine haraciyedir Ana *arz ı memleket* dirler Aslı haraciyedir Lâkin sahiblerine temlik olunduğı takdirce fevt olub verese i kesîre mâbeynlerinde taksim olunub her birine bir cüz'î kıt'a değüb her birinin hissesine göre haraçları tevzî' ve ta'yin olunmakda kemâl-i su'ûbet ve işkâl olub belki âdeten muhal olmağın rakabe-i arazi Beytülmal i müslimîn için alıkonulub reayaya âriyet tarikiyle virilüb ziraat ve hırsaset idüb ve bağ ve bağçe ve bostan idüb hasıl olandan *harac-ı mukaseme* sin ve *harac-ı muvazzaf* ın virmek emr olunmuşdur Sevad ı 'Irakın arazisi bâ'zı eimme i din mezheplerinde bu kabildendir" Quoted in Barkan, *Zirâi Ekonominin Hukuk ve Malî Esasları*, pp. 298–9.

20 It should be noted here, however, that in addition to these three types of land system in the Ottoman Empire, there was another one called *Malikâne-Divânî*, which can be seen as a combination of both *mülk* and *mîrî* lands. Ömer Lûtfi Barkan, "Türk-İslam Toprak Hukuku Tatbikatının Osmanlı İmparatorluğu'nda Aldığı Şekiller, Malikâne-Divânî Sistemi", *Türkiyede Toprak Meselesi Toplu Eserler*, I (İstanbul: Gözlem Yayınları, 1980), pp. 151–208; Halil İnalçık, "State, Land and Peasant", *An Economic and Social History of the Ottoman Empire, 1300–1914*, eds. Halil İnalçık and Donald Quataert (Cambridge: Cambridge University Press, 1994), pp. 126–31; Mehmet Genç, "Malikâne-Divânî", *TDV İslâm Ansiklopedisi*, 27, 2003, pp. 518–9.

21 For more information on the state ownership of the land and land possession outside the *mîrî* system, see İnalçık, "State, Land and Peasant", pp. 103–31. For a succinct



Regarding land tenure in the Ottoman Empire, only a small portion of lands can be considered as freehold (*mülk*), which were granted by the sultans to individuals and groups in exchange for their services.<sup>22</sup> A larger portion of lands belonged to *waqf* organizations, whose revenues were dedicated to charitable endeavors.<sup>23</sup> However, the majority of lands were under the ownership of the public treasury and known as *arz-ı memleket*, with their revenues assigned to cavalrymen. Ebussuûd's fatwas aimed to clarify the status of these *arz-ı memleket* lands.<sup>24</sup> Here, an interesting detail regarding Ebussuûd's classification is that he categorized *arz-ı memleket* lands under the category of *harâcî* by stating that the essence of these lands was originally *harâcî*. This conceptualization of Ebussuûd's has led some historians to conclude that he was attempting to reconcile Ottoman and Islamic traditions on a shared ground.<sup>25</sup>

---

evaluation for "the relationship between land's status and ownership" in the Ottoman context, see Bünyamin Punar, "Kanun and Sharia: Ottoman Land Law in Şeyhülislam fatwas from Kanunname of Budin to the Kanunname-i Cedid" (MA Thesis), İstanbul Şehir University, 2005, pp. 23–32.

- 22 Ömer Lûtfi Barkan, "İslâm-Türk Mülkiyet Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller, II, Mülk Topraklar ve Sultanların Temlik Hakkı", *İstanbul Hukuk Fakültesi Mecmuası*, 7/1 (1941), pp. 157–76; Ömer Lûtfi Barkan, "İslâm-Türk Mülkiyet Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller, III, İmparatorluk Devrinde Toprak Mülk ve Vakıflarının Hususiyeti", *İstanbul Hukuk Fakültesi Mecmuası*, 7/4 (1941), pp. 906–42; and İnalçık, "State, Land and Peasant", pp. 120–6.
- 23 Ömer Lûtfi Barkan, "Osmanlı İmparatorluğu'nda Bir İskân ve Kolonizasyon Metodu Olarak Vakıflar ve Temlikler, I, İstilâ Devirlerinin Kolonizatör Türk Dervişleri ve Zâviyeler", *Vakıflar Dergisi*, 2 (1942), pp. 279–386.
- 24 Whether the origin of the *arz-ı memleket* came from Byzantine or Seljukid practices became an important venue for discussion among an earlier generation of modern historians. See Mehmet Fuad Köprülü, *Bizans Müesseselerinin Osmanlı Müesseselerine Tesiri* (İstanbul: Ötüken Neşriyat A.Ş., 1981), pp. 94–130; Ömer Lûtfi Barkan, "Türkiye'de Toprak Meselesinin Tarihi Esasları", *Türkiye'de Toprak Meselesi, Toplu Eserler*, I, (İstanbul: Gözlem Yayınları, 1980), pp. 125–49; Barkan, *Zirai Ekonominin Hukukî ve Malî Esasları*, p. LXIX–LXXI; Halil İnalçık, "Osmanlılar'da Raiyyet Rûsûmu", *Belleten*, 22/92 (1959), pp. 575–608; and Colin Imber, *Ebu's-su'ud, The Islamic Legal Tradition* (Stanford, CA: Stanford University Press, 1997), pp. 115–38. Also see, Halil İnalçık, "İslâm Arazî ve Vergi Sisteminin Teşekkülü ve Osmanlı Devrindeki Şekillerle Mukayesesi", *AÜ İslâm İlimleri Enstitüsü Dergisi*, 1 (1959), pp. 29–46.
- 25 İnalçık, "Islamization of Ottoman Laws", p. 159. Ömer Lûtfi Barkan and Colin Imber tend to see this attempt of Ebussuûd's as legal fiction (*Hile-i Şer'iyye*). Barkan, *Zirai Ekonominin Hukukî ve Malî Esasları*, pp. XL–XLI and Imber, *Ebu's-su'ud*, p. 136.



### Literature on the *Kânûnnâme* of Crete

The information provided so far has given a general idea about the Ottoman classical land regime. Nevertheless, within the context of our discussion, it is of greater importance to consider the perspectives put forth by different historians regarding the land regime of Crete.<sup>26</sup> Ömer Lütü Barkan is considered the first scholar to observe the exceptional status of the land regime implemented in Crete following the enactment of its *kânûnnâme* in 1670. He argued that the classification of lands in Crete as *harâcî* marked a significant departure from the established Ottoman *mîrî* land regime, which had been codified by Ebussuûd in the preceding century. Barkan further asserted that certain taxes (*resm-i tapu* and *resm-i çift*) and terms (*otlak*, *kışlak*, *ispenç*, *kovan*, *cürüm*) were completely abolished in the *kânûnnâme* of Crete. These changes in the land law of Crete were purportedly introduced with reference to the principles of sharia, which Barkan argued deviated from previous practices. Consequently, he raised questions regarding the sharia origins of the Ottoman *mîrî* land regime.<sup>27</sup>

Ahmed Akgündüz, on the other hand, disagreed with Barkan's argument and stated that the implementation of *mülk harâcî* in Crete was not contradictory to the interpretation of the *mîrî* land regime as formalized by Ebussuûd.<sup>28</sup> Akgündüz emphasized that, according to Islamic law, the legal status of a particular piece of land is determined based on the method by which it was initially conquered.<sup>29</sup> In the case of Crete, which was taken peacefully, the lands on the island were designated as *harâcî* for the local inhabitants.<sup>30</sup> He also argued that

26 For the tax legislation of the Greek regions in the sixteenth century in the Ottoman Kanunnames, see John Christos Alexander, *Toward a History of Post-Byzantine Greece: The Ottoman Kanunnames for the Greek Lands, circa 1500 – circa 1600* (Athens, 1985).

27 Barkan, *Zirâi Ekonominin Hukukî ve Malî Esasları*, pp. XIX (fn. 5), XLI–XLII, LXIX.

28 Ahmed Akgündüz, *Osmanlı Kanunnâmeleri ve Hukûkî Tahlilleri*, vol. VIII (İstanbul: Osmanlı Araştırmaları Vakfı, 1994), p. 425.

29 A piece of land could be acquired in four ways: “[I]t could be conquered by force, its inhabitants could capitulate on treaty terms without resistance, they could voluntarily accept Islam, or they could flee, abandoning the land.” Quoted in Kenneth M. Cuno, “Was the Land of Ottoman Syria Miri or Milk? An Examination of Juridical Differences within the Hanafi School”, *Studia Islamica*, 81 (1995), p. 123.

30 It should be recalled here, however, that although the fortress of Candia was taken by peaceful means in 1669, there were a number of other lands on the island which were conquered by force. Minkârîzâde's fatwas will provide us a glimpse on this topic. For this reason, it would be wrong to assume that the whole island was taken by peaceful means.

the lands conquered by force, which Ebussuûd classified as *mîrî*, were originally *harâcî* in nature, based on the viewpoints of jurists belonging to other schools of law apart from the Hanafi school. In essence, Akgündüz asserted that since the status of *mîrî* lands was equivalent to that of *harâcî* lands, both the Ottoman *mîrî* land regime and the classification of lands in Crete as *harâcî* should be examined within the framework of Islamic jurisprudence.<sup>31</sup>

Additionally, alongside the historians mentioned earlier, Gilles Veinstein highlighted the impact of the Kadızadeli in shaping the land regime of Crete. Veinstein draws particular attention to close relationship between Vâni Mehmed and the prevailing ruling elites of that period, namely Köprülü Fâzıl Ahmed Pasha.<sup>32</sup> On the other hand, Molly Greene adopted a more comprehensive approach to investigate the underlying factors driving the alterations in the land regime of Crete. According to her, a combination of various elements, such as Islamic principles, Latin administrative practices, and broader trends within the Ottoman Empire at that time, significantly contributed to the final shaping of the 1670 *kânûnnâme* of Crete.<sup>33</sup> In a later publication, Greene also examined

31 Akgündüz's comment on the issue is as follows: "[T]he *mîrî* [state-owned] land [in qanun terminology] is *kharāj* [land acquired through conquest in the fiqh terminology] [...] The taxes collected from these types of lands, which were called *rûsum-ı şer'iyye* in Ottoman law, were assigned and collected according to the prescription in Islamic books of fiqh. The tax that is called *öşür* [in the Ottoman context] is [fiqh-based] *kharāj al-muqāsama* and [the tax called] *çift akçesi* is really *kharāj al-muwazzaf* [...]. All directives in Ottoman qanunnames pertaining to *öşür* and *çift akçesi* are consistent with what we find in the [fiqh] texts." The translated passage is taken from Boğaç Ergene's study. See Boğaç A. Ergene, "Qanun and Sharia", *The Ashgate Research Companion to Islamic Law*, eds. Rudolph Peters and Peri Bearman (Burlington VT: Ashgate, 2014), p. 117. For the original passage, see Akgündüz, *Osmanlı Kanunnâmeleri ve Hukûkî Tablilleri*, vol. I, p. 67.

32 Gilles Veinstein, "Le législateur Ottoman face à l'insularité, L'enseignement des Kânûnnâme", *Insularités ottomanes*, eds. Nicolas Vatin and Gilles Veinstein (Istanbul: Institut français d'études anatoliennes, 2004), pp. 91–110, at p. 104. Also see, and Gilles Veinstein, "Les règlements fiscaux ottomans de Crète", *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840 (Halcyon Days in Crete VI)*, a symposium held in Rethymno, 13–15 January 2006, ed. Antonis Anastasopoulos (Rethymno: Crete University Press, 2008), pp. 3–16; and Gilles Veinstein, "On the Çiftlik Debate", *Landholding and Commercial Agriculture in the Middle East*, eds. Çağlar Keyder and Faruk Tabak (Albany: State University of New York Press, 1991), pp. 35–53.

33 Molly Greene, "An Islamic Experiment? Ottoman Land Policy on Crete", *Mediterranean Historical Review*, 2/1 (1996), pp. 60–78.

this topic and specifically emphasized the activities of the Köprülü family on the island. In her study, Greene argued that the Köprülü family, who owned a significant number of properties on the island, pursued a policy aimed at protecting their own interests in the implementation of the new land policy in Crete.<sup>34</sup>

In addition to these studies, Eugenia Kermeli's article can be considered as the most comprehensive work on the Ottoman land system in Crete. By comparing the two land laws enacted in 1650 and 1670, providing examples from court records, and examining a range of fatwas, Kermeli views the Cretan case as an experimental endeavor through which the Ottomans transformed the local customs of Crete. The Ottomans accomplished this by adhering to their own traditions and, at the same time, enhancing their prospects for agricultural profitability by employing Islamic terminology.<sup>35</sup> The most pertinent aspect of Kermeli's article for this study is the authenticity of the utilized fatwas. Specifically, she benefited from the fatwa compilation of Menteşzâde Abdurrahîm, acknowledging the possibility that he may have collected these fatwas from a previous period.<sup>36</sup> However, as will be demonstrated in subsequent lines, it is actually Minkârîzâde Yahyâ who issued these fatwas. Establishing that the fatwas related to Crete in Menteşzâde Abdurrahîm's fatwa compilation were issued by Minkârîzâde during his tenure as the chief jurist is crucial for determining the specific historical context within which these fatwas were promulgated.

### **The Authenticity of Minkârîzâde's Fatwa Compilation and His Fatwas on Crete**

Minkârîzâde Yahyâ (1609–1678) was one of the longest-serving chief jurists in the empire during the seventeenth century. After holding various positions within the Ottoman scholarly organization, such as professorship, judgeship, and *mümeyyiz* (examiner), he reached the highest level of the hierarchy and assumed the position of chief jurist in 1662, which he held until 1674.<sup>37</sup> Despite the fact that his tenure coincided with the Köprülüs and that a powerful personality like

34 Molly Greene, *A Shared World: Christians and Muslims in the Early Modern Mediterranean* (Princeton, N.J.: Princeton University Press, 2000), p. 27.

35 Kermeli, "Caught in between Faith and Cash", pp. 1–32.

36 Kermeli, "Caught in between Faith and Cash", p. 25, fn. 121.

37 For Minkârîzâde's life before he became a chief jurist, see; Özgün Deniz Yoldaşlar, "Minkârîzâde Yahyâ and the Ottoman Scholarly Bureaucracy in the Seventeenth Century" (PhD diss.), Boğaziçi University, 2021, pp. 36–79.

Vânî Mehmed was on the stage, Minkârîzâde was a scholar who personally engaged in the important political, religious, and intellectual issues of his time. Therefore, the topics he addresses in his fatwa compilation offer promising possibilities for examining hitherto unexplored matters of the period from different perspectives. As Minkârîzâde's compilation of fatwas was not subjected to lithographic printing and has not been translated into contemporary Turkish, the copies used by present-day researchers exhibit variations. The question of whether the fatwas found in these copies genuinely belong to Minkârîzâde, however, has not been a subject of significant research attention so far. The divergent nature of the copies used by contemporary researchers to analyze his fatwa compilations necessitates a more thorough examination of the authenticity of Minkârîzâde's fatwas.

The introductory note provided by Atâullâh Mehmed, who was one of Minkârîzâde's students and a fatwa consultant, serves as a valuable starting point for exploring the matter at hand.<sup>38</sup> According to his account, Minkârîzâde's fatwas were initially collected in a *mecmû'a* during his tenure as the chief jurist from 1662 to 1674. However, this compilation was damaged by water and rendered unreadable. Subsequently, one of Atâullâh Mehmed's fellows found many fatwas bearing Minkârîzâde's fatwas and compiled them anew. Nonetheless, Atâullâh Mehmed decided to recompile these fatwas due to the possibility of the copyist making

38 Atâullâh Mehmed Efendi, *Fetâvâ-yı Atâullâh*, Süleymaniye YEK, Esad Efendi MS 1095, 1<sup>b</sup>-2<sup>a</sup>. "Emmâ ba'd, bu fakîr Atâullah Muhammed el-hakîr nice sâl-i ferhunde-fâl zîb-efzâ-yı sadr-ı fetvâ ve zînet-bahşâ-yı makâm-ı iftâ olan meşâyih-i islâm —eskenhumullâhu fî dârisse'lâm— hazerâtının, fetâvâ-yı şerîfe hizmetleriyle şerefîyâb ve güzârende-i evkât olup, siyyemâ bu mecmûa hâviye olduğu es'ileye cevâb-fermâ olan, âric-i ma'âric-i menzilet ve dâric-i medâric-i mağfîret Minkârîzâde Yahyâ Efendi merhûmun zamân-ı şerîflerinde tesvîd-i suâl-i sâil ve tettebbu'-i mesâilde şeb u rûz sa'y u gûşîş olunub merhûmun fetâvâ-yı müşkilesi bir cerîdede rakamzede olmuş idi. Kazâ-i ilâhî ile cerîde âbzede olub kabûl-nâkerde-i intifâ' olmuş idi. Bazı hademe-i fetvânın mecmûalarına dahi bi-emrillah-ı teâlâ dayâ' el virmekle merhûmun fetâvâsı ve asılların akâsî-i merâtib-i nisyân olub bu ma'nâ gusseendâz-ı bâl-i pürmelâl olmağla merhûmun fetâvâsını cem'in tarafında tekâpûy vâdî-i hayret-mebâdî-i fikret iken, ihvân-ı nâdirü'l-akrândan biri merhûmun imzâ-yı savâb-ihtivâsı ile mümdât fetâvâ-yı vâfire ve mesâil-i mütekâsireye zafer bulmağla bir cerîdeye fetâvâ-yı sâire gibi tertîb-i kütüb ü ebvâb ile cem' idüb lâkin nâsihin bazı ecvibede hatâsı ihtimali cevelân-gîr-i bazı havâtır olmağla bu vâhime râğbet-şiken-i talebe-i fetâvâ olmağın merhûmun hafîdi ve emsâlinin vahîdi Çelebî Efendi bu ma'nâyı fakîre işrâb ve bu vâhimeyi refe ilhâh u ishâb idüb bu esnâda leyâlînin birinde pister-nişîn-i hâb iken merhûm âlem-i misâlde izhâr-ı cemâl ve bu cem'a işâret u gûşimâl itmekle müsta'înen billahiteâla şurû' ü âğâz olındı."

mistakes in transcribing Minkârîzâde's responses. With the assistance of Çelebi Efendi, a descendant of Minkârîzâde, Atâu'llâh Mehmed compiled a new *mecmû'a* consisting of Minkârîzâde's fatwas. In summary, based on this introductory note, it is evident that the fatwas found in the compilation of Atâullâh Mehmed, also known as *Fetâvâ-yı Atâullâh* in certain catalogues, belong to Minkârîzâde.<sup>39</sup>

While it is clear that the compilation made by Atâullâh Mehmed contains fatwas belonged to Minkârîzâde, it is important to note that commenting on other compilations listed in library catalogues as *Fetâvâ-yı Minkârîzâde* poses a different challenge. These compilations differ from the compilation made by Atâullâh Mehmed, and thus require separate consideration and evaluation. For this purpose, one can start by demonstrating that the fatwa compilation hitherto known as *Fetâvâ-yı Abdurrahîm* prepared by Menteşzâde Abdurrahîm (d. 1716) encompasses nearly all of the fatwas attributed to Minkârîzâde as well. Establishing this aspect constitutes a crucial stage in examining the authenticity of Minkârîzâde's compilations of fatwas, which unquestionably has the capacity to expand the horizons for Ottoman historians of the seventeenth century and facilitate discussions on diverse topics within their proper historical context.<sup>40</sup>

In connection with this matter, it is worth noting that the fatwa compilation referred to as *Fetâvâ-yı Abdurrahîm* in certain library catalogues and *Fetâvâ-yı Minkârîzâde* in others contains the same content. The confusion in library catalogues is likely due to the presence of the first fatwa, which can be found in all these compilations.<sup>41</sup> However, the main problem lies in the explicit statement found in certain compilations attributed to Minkârîzâde in library catalogues, indicating that this first fatwa was issued by Minkârîzâde himself.<sup>42</sup> This likely led both the

39 For some copies of his compilation, see İstanbul Müftülüğü, 144; Süleymaniye YEK, Hekimoğlu, 421; Süleymaniye YEK, Laleli, 1264; and Süleymaniye YEK, Fatih, 2386.

40 Minkârîzâde's fatwas being included in *Fetâvâ-yı Abdurrahîm* and their enduring presence in this compilation until the present day necessitate examination within the context of Ahmed El Shamsy's recent book, which explores how editors and print culture transformed manuscript culture. See, Ahmed El Shamsy, *Rediscovering the Islamic Classics: How Editors and Print Culture Transformed an Intellectual Tradition* (Princeton: Princeton University Press, 2020).

41 This first fatwa reads as follows: "Zeyd-i mü'min bir emr-i zî-bâle şurû' itdükde ne ile bed' itmek gerekdir ki mübârek ve kâmil ola? El-cevab: Bismillâhîrrahmânirrahîm ile bed' idüb, bâdehû bilâ fasl el-hamdü li'llâhi rabbi'l-âlemin ile bed' itmek gerekdir. (El-mevlâ el-'allâmetü'l-merhûm Şeyhülislâm Yahyâ Efendi eş-şehîr bi-Minkârîzâde tayyeballâhu serâhu ve ce'ale'l cennete mesvâhu.)"

42 For these compilations, see Minkârîzâde Yahyâ, *Fetâvâ*, Süleymaniye YEK, Aşir Efendi,

cataloguers and modern historians to overlook the sameness of these compilations. As a result, the same compilations were recorded under two different titles.<sup>43</sup>

However, this attribution is not entirely unfounded, because, even if we set aside the compilations' sameness, the high degree of overlap between the two compilations prepared by Atâullâh Mehmed and Menteşzâde Abdurrahîm shows more than just a simple circulation of some fatwas in both compilations. Rather, the majority of the fatwas in *Fetâvâ-yı Atâullâh* can also be found in *Fetâvâ-yı Abdurrahîm*. It raises the possibility that Menteşzâde Abdurrahîm may have edited Minkârîzâde's fatwas and ascribed his name as the author in the compilation. Atâullâh Mehmed's introductory note implies the existence of another compilation of Minkârîzâde's fatwas, which further supports this assumption. Considering that Menteşzâde Abdurrahîm served as chief jurist for only a short period, but his fatwa compilation contains over eleven thousand fatwas, it becomes highly unlikely that he personally issued all the fatwas included in that compilation.<sup>44</sup>

Regarding this matter, another challenge in examining the fatwa compilation of Minkârîzâde arises from the misattribution of some fatwa compilations of Zekerîyyâzâde Yahyâ to Minkârîzâde in library catalogs. This confusion likely stemmed from copyists mistakenly interchanging the names of these two prominent jurists or from misinterpretation by the cataloguers.<sup>45</sup> On the other hand, considering the fact that the compilation of Menteşzâde Abdurrahîm also incorporates the fatwas of Zekerîyyâzâde Yahyâ, a more intricate situation emerges.<sup>46</sup>

---

137; Süleymaniye YEK, Hamidiye, 610; Nuruosmaniye YEK, Nuruosmaniye, 2001, 2002, 2003; and Harvard Law School Library, HLS MS, 1402.

43 For example, in an entry written by Mustafa Yayla regarding the *Fetâvâ-yı Minkârîzâde* in the *Türkiye Diyanet Vakfı İslâm Ansiklopedisi*, there is a photo on the first page of Minkârîzâde's fatwa compilation found in Süleymaniye YEK, Hamidiye, 610, which is exactly the same as that of the compilations prepared by Menteşzâde Abdurrahîm. See Mustafa Yayla, "Fetâvâ-yı Minkârîzâde", *TDV İslâm Ansiklopedisi*, 12, 1995, pp. 444–45. In his master's thesis, Çelik also noticed this similarity; see Ahmet Faruk Çelik, "XVII. Yüzyıl Osmanlı Merkez ve Taşrasında Fetva 'Kitabu's-Siyer Örneği'" (MA Thesis), Marmara Üniversitesi, 2018, pp. 5–6.

44 Cengiz Kallek, "Fetâvâ-yı Abdurrahîm", *TDV İslâm Ansiklopedisi*, 12, 1995, p. 437.

45 For example, see Konya YEK, Burdur İl Halk Kütüphanesi, 1980; Nuruosmaniye YEK, Nuruosmaniye, 2056; Süleymaniye YEK, Esad Efendi 1088; and Hacı Selim Ağa YEK, Hacı Selim Ağa 449.

46 A possible reason why *Fetâvâ-yı Abdurrahîm* included the fatwas of both Minkârîzâde Yahyâ and Zekerîyyâzâde Yahyâ might have resulted from the fact that both chief jurists

Based on the available knowledge regarding both compilations, the following conclusion can be drawn: Minkârîzâde's fatwas were compiled in two distinct fatwa collections, one assembled by Atâullâh Mehmed and the other by Menteşzâde Abdurrahîm.<sup>47</sup> However, the attribution of each fatwa in *Fetâvâ-yı Abdurrahîm* to either Minkârîzâde Yahyâ or Zekerîyyâzâde Yahyâ falls outside the purview of this study.<sup>48</sup> Nevertheless, to the extent that is permitted by the available knowledge, the most reasonable way to judge the authenticity of Minkârîzâde's fatwas is to trace every specific fatwa in each compilation and then decide which fatwa belongs to him, a method that I follow in this study. In order to employ this methodology, the conquest of the island of Crete, which occurred during Minkârîzâde's

---

signed their fatwas with the same signature as *ketebehû Yahyâ el-fakîr ufiye anh*, which might have led Menteşzâde Abdurrahîm not to identify which fatwa belongs to whom. For the comparison of their signatures, see *Osmanlı Arşivi'nde Şeyhülislam Fetvaları*, prepared by Sinan Çuluk and Yılmaz Karaca (İstanbul: T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü, 2015), pp. 26–37; pp. 50–63. For the comparison of *Fetâvâ-yı Abdurrahîm* and *Fetâvâ-yı Yahyâ Efendi*, I benefitted from Zekerîyyâzâde Yahyâ's fatwa compilation that can be found in Süleymaniye YEK, Serez, 1116.

47 Despite this, however, Menteşzâde Abdurrahîm's compilation seems to be more organized in terms of content.

48 There are some copyists' note that might lead us to think that the fatwas that can be found in Menteşzâde Abdurrahîm's compilation only belongs to Minkârîzâde. For this point, see Ahmet Faruk Çelik, "Minkârîzâde Yahya Efendi'nin Fetvalarının *Fetâvâ-yı Abdurrahîm* Olarak Tedavüle Girişi Üzerine Değerlendirmeler", *Marmara Üniversitesi İlahiyat Fakültesi Dergisi*, 60 (2021), pp. 57–76, at 67–71. Despite these notes, however, there is another later note that has a possibility to query this assumption which was written at the beginning of a specific fatwa compilation found in Nuruosmaniye YEK, Nuruosmaniye, 2037. Whoever wrote this critical note asserts that those who can penetrate into the books of *fikh* by carefully examining them will realize that this compilation also contains the fatwas signed by others. In light of this, one must be careful to recall that not all the fatwas in the compilation of Menteşzâde Abdurrahîm actually belonged to Minkârîzâde. However, this specific compilation is not complete, with many sub-sections missing. Similarly, the number of fatwas varies in each section. Therefore, it is almost impossible to compare which fatwas belong to Minkârîzâde and which to Menteşzâde Abdurrahîm based on this copy alone. See Nuruosmaniye YEK, Nuruosmaniye, 2037: "Bu nüsha-i celile-i mu'tebere 'allâme-i Rûm Minkârîzâde merhûm zamân-ı şeriflerinde imzâ ve yed-i müsteftiye i'tâ buyurdıkları tercüme-i mesâ'il-i fikhiyyeyi hâvî mecmû'a-i ğarrâdır ki ba'deh yine sadr-ı fetvâ zât-ı sûtûde-sıfâtlarına tefvîz buyurılan fuhûl-ı 'ulemâ-yı 'izâm —nevverellâhu merkadehum— hazerâtı zamân-ı sa'âdetlerinde ba'de't-tetebbu' ve't-tedkîk imzâ buyurdıkları fetâvâ-yı şerife zamm ve ilhâk olundığı ba'de'n-nazar ve't-te'emmül-i'enik müteneffizân-ı sahâyif-i fikh-ı şerif olanlara hüveydâdır. Allahumme Fakkihnî fi'd-dîn ve vefkînî fi'l-icrâ'i 'ale'l-yakîn, bi-hurmeti seyyidi'l-evvelîn ve'l-âhirîn, âmin yâ rabbe'l-âlemin."



tenure as the chief jurist, can serve as an appropriate and fruitful starting point.

From the above discussion, it was concluded that there are two distinct collections of fatwas prepared by Menteşzâde Abdu'r-rahîm and Atâullâh Mehmed, both of which include fatwas attributed to Minkârîzâde. However, the most reasonable way to judge the authenticity of Minkârîzâde's fatwas in both compilations is to determine the specific historical context in which these fatwas were written and then compare similar fatwas in both compilations. Regarding Minkârîzâde's fatwas related to Crete, it is plausible to argue that the Crete-related fatwas in Menteşzâde Abdurrahîm's compilation were actually issued by Minkârîzâde, and nearly all of them can also be found in the compilation prepared by Atâullâh Mehmed.

However, there is a notable difference between certain fatwas included in the two compilations. It appears that while Menteşzâde Abdurrahîm's compilation consisted of Minkârîzâde's original fatwas, Atâullâh Mehmed's compilation underwent an editing process that abstracted the fatwas from their historical context. This editing process likely explains why Atâullâh Mehmed did not include all the fatwas found in Menteşzâde Abdurrahîm's compilation. The likely reason behind this is the fact that Atâullâh Mehmed, recognized for his exceptional understanding of Islamic law and practice and serving as the fatwa consultant (*emîn*) of Minkârîzâde, might have compiled such a collection with the intention of making Minkârîzâde's fatwas accessible to a wide range of audiences, irrespective of time and place, without being confined to a specific context. The following two exemplary fatwas from each compilation might help shed light on the distinction between these two compilations.<sup>49</sup>

---

49 Throughout this article, since we know that the fatwas in Atâullâh's compilation belong to Minkârîzâde and that the fatwas in Menteşzâde Abdurrahîm's compilation were previously used by Eugenia Kermeli in her article, I prefer to make reference to the fatwas found in Atâullâh's compilation. For this, I have relied on a compilation copied in 1725 and found in Süleymaniye YEK, Hekimoğlu, 421 (Henceforth Hekimoğlu, 421). As to Menteşzâde Abdurrahîm, I benefitted from a copy found in Süleymaniye YEK, Hamidiye, 610 (Henceforth Hamidiye, 610), which was recorded in the library catalogues as if it belonged to Minkârîzâde but is the same in terms of content as that of the printed edition of the *Fetâvâ-yı Abdürrahîm*. Since some fatwas were only included in the copy compiled by Abdurrahîm, I refer to them only when necessary. For the printed edition of the *Fetâvâ-yı Abdürrahîm*, see Menteşzâde Abdurrahîm Efendi, *Fetâvâ-yı Abdürrahîm*, vol. 1-2 (İstanbul: Dârü't-Tibâati'l-Ma'mûreti's-Sultâniyye, 1827).

### Comparison of *Fetâvâ-yı Abdurrahîm* and *Fetâvâ-yı Atâullâh*

<i>Fetâvâ-yı Abdurrahîm</i>	<i>Fetâvâ-yı Atâullâh</i>
Question: In the event that the island of Crete was conquered, and authorized serdars and defterdârs allocated state lands to certain individuals through proxy, if those lands were sold below their market value, is it possible for the lands sold below their market value to be reclaimed from the buyers and resold at their market value through an imperial decree? Answer: Yes, they can. <sup>50</sup>	Question: If the defterdâr allocated certain state-owned lands to individuals through proxy, and if those lands were sold below their market value, is it possible for the lands to be reclaimed from the buyers and resold at their market value through an imperial decree? Answer: Yes, they can. <sup>51</sup>
Question: Following the conquest of the island of Crete, certain individuals were allocated specific lands from the state lands for cultivation purposes, with the obligation to pay <i>harâc</i> to the entitled parties. Despite having the right to utilize the lands, they were not granted ownership of the land itself. If these individuals have been cultivating the land for an extended period and have fulfilled their <i>harâc</i> obligations, is it still permissible to seize the land from them through an imperial order and allocate it to those willing to pay <i>harâc-ı muvazzaf</i> and <i>harâc-ı mukâseme</i> , or alternatively, as rent equivalent to the <i>harâc</i> amount? Answer: Yes, it is. <sup>52</sup>	Question: If certain lands are prepared from state lands and given to individuals without granting ownership, for the purpose of cultivating them and paying the <i>harâc</i> to the entitled parties, is it still permissible to take these lands from them by an imperial order and allocate them to those who offer to pay the <i>harâc-ı muvazzaf</i> and <i>harâc-ı mukâseme</i> , or the amount of <i>harâc</i> as rent? Answer: Yes, it is. <sup>53</sup>

- 50 Hamidiye, 610, 32<sup>b</sup>: “Soru: Girid cezîresi feth-u teshîr olundukda beytül-mâl için i’dâd olunub arz-ı memleket olan arâzînin bâzısını serdâr ve defterdâr me’mûr olmalarıyla vekâleten bâzı kimesnelere bey’ idüb lâkin gabn-i fâhiş ile bey’ itmiş olsalar ol gabn-i fâhiş ile bey’ olan arâzî müşterî yedlerinden nez’ olunub semen-i misilleriyle bey’ olunmak üzere emr-i sultânî vârid olmağla nez’ olunub semen-i misilleriyle bey’ olunur mu? El-cevab: Olunur.”
- 51 Hekimoğlu, 421, 25<sup>b</sup>: “Soru: Arz-ı memleketden bir mikdâr arâzîyi defterdâr vekâletle bey’ ider oldukda semen mislinden noksân fâhişe bey’ eylese ol arâzî müşterîlerden alunub semen-i misilleriyle bey’ olunmağa emr-i sultânî vârid olmağla semeni misilleriyle bey’ olunur mu? El-Cevab: Olunur.”
- 52 Hamidiye, 610, 32<sup>b</sup>: “Soru: Girid Cezîresi feth-u teshîr olundukda beytül-mâl için i’dâd olunan arz-ı memleket olan arâzîsi bâzı kimesnelere eküb biçüb harâcını ta’yîn olunan erbâbına virmeleri üzere virilüb ancak bu vech üzere tasarruflarına izin virilmüş olub ol arâzînin rakabeleri temlik olunmamış olsa ol kimesneler dahî nice sene zabt u tasarruf idüb eküb biçüb me’mûr oldukları üzere harâcını virmiş olsalar hâlâ emr-i sultânî ile yedlerinden nez’ olunub harâc-ı muvazzaf ve mukâseme yâhûd harâc mikdârı icâre ile taleb idenlere virilmek câ’iz olur mu? El-cevab: Olur.”
- 53 Hekimoğlu, 421, 26<sup>a</sup>: “Soru: Arâzî-yi memleket bâzı kimesnelere eküb biçüb ta’yîn olunan harâcını erbâbına virmeleri üzere virilüb temlik olunmamış olsa hâlâ emr-i sultânî ile yedlerinden alunub harâc-ı muvazzaf ve mukâseme yâhûd harâc mikdârı icâre ile tâlib olanlara virilmek câ’iz olur mu? El-Cevab: Olur.”

First and foremost, these fatwas provide an opportunity to correct an inaccurate generalization found in the existing literature concerning the *harâcî* status of land in Crete. It is crucial to note that the classification of the land system in Crete as *harâcî* in its *kânûnnâme* has been interpreted as a significant departure from the previous tax systems based on *kânûn*, representing a triumph of sharia over *kânûn*. However, these two fatwas by Minkârîzâde demonstrate that there were also lands in Crete that were acquired as state land (*arz-ı memleket*) rather than being granted as *harâcî*. This finding challenges the prevailing assumption based on the 1670 *kânûnnâme*, which states “since the land which is in the possession of the infidels of this island is *harâcî* land, let it stay and continue in their hands.”<sup>54</sup> Many historians have accepted this statement at face value without exploring the actual practices on the island. Nevertheless, these two aforementioned fatwas by Minkârîzâde, along with following fatwa found solely in the compilation prepared by Menteşzâde Abdurrahîm, suggest that this assumption may only be partially true.<sup>55</sup>

Question: After the conquest of the island of Crete, certain lands were not assigned to any particular individual but remained classified as state land. Certain individuals were allowed to possess and use these lands on the condition that they paid a certain amount of money to the state treasury in the form of *harâc* to be distributed to the rightful owners. If these individuals maintained their rights of possession and use for a long period of time and get back the money they gave to the treasury in full, is it permissible for the land to be taken away from them by edict and allocated to non-Muslims who accepted the obligation to pay estimated *harâc-ı mukâseme* and *harâc-ı muvazzaf*, or for the treasury to allocate these lands to applicants through the practice of sharecropping? Answer: Yes.<sup>56</sup>

54 “Cezîre-i mezbûre keferesinin tasarrufinin bulunan arazi arazi-i hariciye olmak üzere yedlerinde mükerrer ve ibka kalanı.” Quoted in Greene, “Islamic Experiment”, p. 64, fn. 16. This part is not legible in the text published by Barkan.

55 The absence of the following fatwa in the compilation of Atâullah Mehmed, however, might have resulted from its similarity with the previous fatwa, which probably led Atâullah Mehmed to choose not to include it in his compilation.

56 Hamidiye, 610, 32<sup>b</sup>: “Soru: Girid Cezîresi feth-u teshîr olundukda ba’zı arâzîsi kimesneye temlik olunmayub arz-ı memleket ittihâz olunmağla ba’zı kimesnelerin beytü’l-mâl için bir mikdâr akçeleri alunub ol arâzinin harâcını ta’yîn olunan yirlere vormeleri üzere tasarruflarına izin virilmiş olsa ba’dehû ol kimesneler ol arâzîyi zamân-ı medîd tasarruf idüb beytü’l-mâl için virdikleri akçeyi istîfâ itmiş olsalar, ol arâzî yedlerinden emr-i sultânî ile nez’ olunub zimmet kabul iden kefereye harâc-ı

From the aforementioned fatwa, one can conclude that following the conquest of the island of Crete, certain lands were designated as state-owned, and specific individuals were permitted to utilize the land by paying a fee to the public treasury. At this juncture, it is also necessary to address the erroneous claim that the land ownership system implemented in Crete before the proclamation of the 1670 land regime was solely characterized by *mîrî* ownership. In connection with this point, it is important to note that the *kânûnnâme* of 1670 was not actually the inaugural document of its kind enacted on this island. Although the Ottomans conquered the largest city of Crete, Candia, in 1669, the conquest of Crete actually began in 1645. During the period between these dates, Chania and certain castles, namely Rethymno, Grambousa, Kissamos, and Apokoronas, were captured from the Venetians.<sup>57</sup> Consequently, due to the Ottoman acquisition of these lands, an earlier *kânûnnâme* was already issued in 1650, which adhered to the traditional land system of the Ottoman Empire by granting *tîmâr* and *zêâmet* to soldiers.<sup>58</sup> From this perspective, those who consider this land regime as a reference point might assume that Ottoman classical land tenure was also applied in Crete. However, as demonstrated by Kermeli based on court records from Crete, there were also *harâcî* lands even before the promulgation of the land regime of Crete in 1670.<sup>59</sup> The conclusion that can be drawn from the discussion so far is

---

muvażzaf ve mukâseme takdîri ile virilüb yâhûd beytül-mâl tarafından tâlib olanlara muzâra'a tarîkiyle virilmek câ'iz olur mu? El-Cevab: Olur."

- 57 Greene, *Shared World* and Ersin Gülsoy, *Girit'in Fethi ve Osmanlı İdaresinin Kurulması, 1645–1670* (İstanbul: Tarih ve Tabiat Vakfı, 2004). Also see Elias Kolovos, "A Town for the Besiegers: Social Life and Marriage in Ottoman Candia outside Candia (1650–1669)", *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840* (*Halcyon Days in Crete* VI), a symposium held in Rethymno, 13–15 January 2006, ed. Antonis Anastasopoulos (Crete: Crete University Press, 2008), pp. 103–75.
- 58 Ersin Gülsoy, "Osmanlı Tahrir Geleneğinde Bir Değişim Örneği: Girit Eyâleti'nin 1650 ve 1670 Tarihli Sayımları", *Pax Ottomana: Studies in Memoriam Prof. Dr. Nejat Göyünç*, ed. Kemal Çiçek (Ankara: SOTA–Yeni Türkiye Yayınları, 2001), pp. 183–203.
- 59 Kermeli, "Caught in between Faith and Cash", pp. 13–8. Also see Nuri Adıyke, "Fatih Paşalar'ın Kendilerine Armağanı, Osmanlı Girit'inde Temlik/Mülk Köyler", *Venetians and Ottomans in the Early Modern Age Essays on Economic and Social Connected History*, ed. Anna Valerio (Venezia: Edizioni Ca' Foscari Digital Publishing, 2018), pp. 97–110. The imposing of *harâc* tax on people before the promulgation of the new land regime of Crete in 1670 can also be confirmed by another contemporary source: "Anların kefereleri Venedik ile yigirmi beş seneden beri bozuşalı, hem bize birez harb öciyle harâc verirler idi ve hem kâfîre harâc virüb imdâd iderler idi. Şimdi bi-hamdî'llâhi T'âlâ kal'a feth olub küffâr ile sulh u salâh olalı ola da kefereleri cümle harâcını berüye virüb,

that the existence of both *harâcî* and *arz-ı memleket* lands in Crete both before and after the introduction of the new land regime in 1670 challenges the common assumption that the status of lands in Crete was exclusively *harâcî*.<sup>60</sup>

On the other hand, the coexistence of *harâcî* and *arz-ı memleket* lands in Crete further complicated the matter, as state-owned lands inherently confer greater authority upon the state to exercise control. The existence of state lands provides an opportunity to delve into the extent to which Minkârîzâde allows for Ottoman *kânûn*, thus leading us to the intricate relationship between *kânûn* and sharia.<sup>61</sup> The examination of the following two fatwas would be intriguing in further exploring this point.

Question: Where infidels invade a land within the Abode of Islam and pillage the surrounding area, causing distress to the landowners, is it possible for them to regain possession of the land once their fellow Muslims return and emerge victorious after a few years? Answer: If there is an imperial order, they can.<sup>62</sup>

Question: If, after the infidels invade a land within the Abode of Islam and the inhabitants disperse, and if later the land is peacefully incorporated into the

---

*küffâr el çekmek üzere abz olunmuştur.*” Zaynî Mustafa bin Musa, *Tarih-i Sefer ve Feth-i Kandiye*, Fazıl Ahmed Paşa'nın Girit Seferi ve Kandiye'nin Fethi (1666–1669), ed. Melt-em Aydın (İstanbul: Demavend Yayınları, 2015), p. 144.

60 Another important topic to be addressed regarding Minkârîzâde's fatwas is the question of to whom the revenues of *arz-ı memleket* were allocated. A tangible answer to this question can hardly be found in the fatwas themselves, but it is highly likely that these revenues were given to the commanders and guards of the forts. According to Gülsoy, the lands belonging to *tîmâr* holders were abolished after the promulgation of the 1670 *kânûnnâme*. Instead, all the *tîmârs* and *ze'âmet*s were given to the soldiers employed in the castles of Candia, Chania, Rethymno, Kissamos, and Ierapetra. Gülsoy, *Girit'in Fethi*, pp. 303–10. For more information about the process that enabled the commanders and guards of forts to be given military fiefs, see Özgür Kolçak, “Yeniçeriler, Ümera Kapıları ve Tımarlı Sipahiler: 1663–1664 Osmanlı-Habsburg Savaşlarında Osmanlı Ordu Terkibi”, *Yeni Bir Askeri Tarih Özlemi: Savaş, Teknoloji ve Deneyisel Çalışmalar*, ed. Kahraman Şakul (İstanbul: Tarih Vakfı Yurt Yayınları, 2013), pp. 217–51, at 241–5.

61 The relationship between *kânûn* and sharia remains a subject of intense and lively debate among scholars. For a general evaluation of the topic, see Ergene, “Qanun and Sharia”, pp. 109–20.

62 Hekimoğlu, 421, 21<sup>a</sup>: “Soru: Dârü'l-İslâmdan bir diyâra harbî kefare müstevlî olub nehb ü gâret itmekle kurbunde olan arâzînin mutasarrıfları perişân olub ba'dehû bir kaç seneden sonra ehl-i İslâm gâlib olmağla ashâbı gelseler ol arâzîyi zabta kâdir olur mu? El-cevab: Emr-i 'âli öyle olucak olurlar.”

territory of Islam, and if the imperial treasurer intends to grant the land with a title deed, can the previous occupants of the land prevent this and reclaim it once again? Answer: No, not unless they have an imperial order [that allows them to do this].<sup>63</sup>

From the more detailed fatwas found in the compilation prepared by Menteşzâde Abdurrahîm, we understand that the status of the lands mentioned in these fatwas was *arz-ı memleket* and the lands mentioned in both fatwas were taken by peaceful means.<sup>64</sup> In such cases, the political authority had limited alternatives due to the obligation of collecting *harâc* taxes from lands acquired through peaceful means. Nevertheless, Minkârîzâde highlights the significance of an imperial decree coming from the political authority. However, the situation was rather different if the land was conquered by force. As such, as the following fatwas show, Minkârîzâde stated his legal opinion without reference to political authority when the land had been conquered by force and was given as *tîmâr*, which left no room for freehold:

Question: In a region that was conquered through force, certain lands were assigned to a *tîmâr* and granted to Amr, who subsequently transferred a portion of the land to Bekr through title deed. Later, the enemy Bişr, who had returned with a pardon, claims that the land originally belonged to his father prior to the

63 Hekimoğlu, 421, 21<sup>a</sup>–21<sup>b</sup>: “Soru: Dârü’l-İslâm’dan bir beldeye harbî kefare müstevlî olub ahâlîsi perişân olduktan sonra ol belde sulhla havza-ı İslâma dâhil olsa emîn-i beytül-mâl arâzisini tapu ile virmek murâd itdükde mukaddemâ mutasarrıflarının ‘biz zabt iderüz’ deyu men’a kâdir olurlar mı? El-Cevab: Emr-i ‘âli olmadıkça olmazlar.”

64 Menteşzâde Abdurrahîm recorded these fatwas as follows (Hamidiye, 610, 32<sup>a</sup>): “Soru: Dârü’l-İslâm’dan bir diyâra harbî kefare müstevlî olub nehb ü gâret itmekle kurbunde olan arâzi-yi emîriyenin mutasarrıfları olanlar etrâf-ı memâlik perişân olub ba’dehû ol diyârda harbî kefare havfı yirmi seneden mütecâviz zamân mütemâdî olmağla ol arâzi hâliyâ ve mu’attal kalub aslâ bir tarafından zirâat ve hırâset olunmayub, ba’dehû harbîler ehl-i İslâm ile musâlaha itdüklerinde havf u haşyet mürtefi’ olmağla ashâbı gelüb ol arâziyi ke’l-evvel zabt ve tasarrufa kâdir olurlar mı? El-Cevab: Emr-i ‘âli olacak olurlar.”; (Hamidiye, 610, 32<sup>a</sup>): “Soru: Dârü’l-İslâm olub arâzisi emîriye olan bir memlekete harbî kefare müstevlî olmağla ahâlîsi bi’l küllîyye perişân olub yirmi seneden mütecâviz hâli ve mu’attal olub ba’dehû ol memleket sulh ile havza-ı İslâm’a dâhil olsa hâlâ emîn-i beytül-mâl ol arâzi-yi mu’attalayı ibtidâ’ tâlib olanlara virmek murâd itdükde kable’l-istilâ mutasarrıfları gelüb ‘mukaddemâ bizim tapu ile tasarrufumuzda olmağla biz zabt u tasarruf ideriz’ dimeğce kâdir olurlar mı? El-Cevab: Emr-i ‘âli olmadıkça kâdir olmazlar.”

conquest and agrees to pay tribute. In this situation, is it possible for the enemy Bîşr to reclaim ownership of the land? Answer: No.<sup>65</sup>

In light of all the above fatwas, it can be argued that Minkârîzâde provided as large a space for the political authority to manoeuvre as Islamic law permitted.<sup>66</sup> Moreover, as these two fatwas make evident, there was no contention between Islamic law and Ottoman *kânûn* (or “secular law,” as some historians have called it),<sup>67</sup> which have generally been depicted in the relevant literature as two distinct spheres.<sup>68</sup> Instead, more recent interpretations of the relationship between Ottoman *kânûn* and Islamic law have employed approaches indicating that “the shari‘a and the kanun were part of the same legal domain in which the main beneficiaries of the economic and political system did not necessarily consider them to work in dichotomy.”<sup>69</sup> Minkârîzâde’s fatwas are important indicators in confirmation of this.

65 Hekimoğlu, 421, 23<sup>a</sup>: “Soru: Bir diyâr ‘anveten feth ba‘dehû arâzîsinden bir mikdârî tîmâr bağlanub ‘Amr’a tevcih olunub ‘Amr ol arâziden bir mikdârını tapu ile Bekr’e virdükden sonra Bîşr-i harbî emânla gelüb zimmet kabûl eylese Bîşr ‘kable’l feth ol arâzî babamın tasarrufunda idi’ diyüb ol arâzîyi zabta kâdir olur mu? El-Cevab: Olmaz.” Menreşzâde Abdurrahîm recorded this fatwa as follows (Hamidiye 610, 32<sup>a</sup>): “Soru: Bir diyâr ‘anveten feth olunub ba‘dehû arâzîsinden bir mikdârî tîmâr bağlanub ‘Amr’a tevcih olunub ‘Amr ol arâziden bir mikdârını Bekr’e tapu ile virdükten sonra Bîşr-i harbî emân ile gelüb zimmet kabul eylese hâlâ Bîşr-i mezbûr ‘kable’l feth ol arâzî müteveffâ babamın tasarrufunda idi’ diyüb ol arâzîyi Bekr’den almağa kâdir olur mu? El-Cevab: Olmaz.”

66 In this regard, Samy Ayoub’s recent study evaluates the Ottoman sultan’s legislative role in the law-making process in late Hanafi jurisprudence by challenging the view that Islamic law distanced itself from the state interference. See Samy A. Ayoub, *Law, Empire and the Sultan: Ottoman Imperial Authority and Late Hanafi Jurisprudence* (New York: Oxford University Press, 2020).

67 Halil İnalçık, “Kânûn”, *Encyclopaedia of Islam*, 2<sup>nd</sup> edition, IV, 1978, pp. 559–62; Richard C. Repp, “Qanun and Shari‘a in the Ottoman Context”, *Islamic Law: Social and Historical Contexts*, ed. Aziz Al-Azmeh (London: Routledge, 1988), pp. 124–45, at 124; and Imber, *Ebu’s-su‘ud*, p. 40.

68 Uriel Heyd, “Kânûn and Shari‘a in Old Ottoman Criminal Justice”, *Proceedings of the Israel Academy of Sciences and Humanities*, 3/1 (1967), pp. 1–18.

69 Quoted in Başak Tuğ, *Politics of Honor in Ottoman Anatolia: Sexual Violence and Socio-legal Surveillance in the Eighteenth Century* (Leiden; Boston: Brill, 2017), p. 59. Dror Ze’evi had previously asserted a similar approach: “[F]rom the sixteenth century onward, the *şariat* and the *kanun* were amalgamated, or came very close to amalgamation, into one legal system in the empire. Most *kanun* experts describe the effort to make the two systems compatible, but their basic assumption is that they remained too distant from each other to form one whole. Our new understanding of the dynamic



However, it should be noted that while there were certain lands that did not fall under the category of *harâcî*, it is undeniable that a portion of the lands on Crete were bestowed as freehold (*mülk*). This leads us to the second subject to be addressed in this article, which is the concept of “the death of the proprietors.”

### The Re-birth of the Proprietors?

The preceding analysis rectifies misconceptions by revealing the presence of both *mîrî* and *harâcî* lands in Crete before and after the conquest of Candia in 1669, refuting the assumed dichotomy between sharia and the Ottoman *kânûn*. However, despite all these, it is certain that a significant portion of the lands given in Crete, especially after the 1670 *kânûnnâme*, were granted as *mülk* (freehold) property. Now, how can we discuss this development by shifting the attention away from the assumed *kânûn* versus sharia dichotomy in favor of examining it as

---

nature of law making in the Muslim world, coupled with a better comprehension of the *şeriat* as a set of premises rather than a legal code, have supplied us with sufficient contradictory evidence to doubt the veracity of the old ‘dual-system’ view. I suggest a different concept here, according to which the sultanic law and the *şeriat* did, in fact, come to form one compatible system. The *kanun* was interwoven with the *şeriat* with painstaking care within the sphere that legal experts of the time could have accepted as Islamic, inside the boundaries of *örf* and *siyâset*.” Dror Ze’evi, *Producing Desire: Changing Sexual Discourse in the Ottoman Middle East, 1500–1900* (Berkeley: University of California Press, 2006), p. 69. For more earlier attempts to examine the judicial practice in Ottoman courts in terms of sharia, *kânûn* and *örf*, see Ronald C. Jennings, “Kadı, Court, and Legal Procedure in 17<sup>th</sup> c. Ottoman Kayseri: The Kadı and the Legal System”, *Studia Islamica*, 48 (1978), pp. 133–72; Ronald C. Jennings, “Limitations of the Judicial Powers of the Kadı in 17<sup>th</sup> c. Ottoman Kayseri”, *Studia Islamica*, 50 (1979), pp. 151–84; and Haim Gerber, “Sharia, Kanun and Custom in the Ottoman Law: The Court Records of 17<sup>th</sup>-century Bursa”, *International Journal of Turkish Studies*, 2/1 (1981), pp. 131–47. Also see Uriel Heyd, *Studies in Old Ottoman Criminal Law*, ed. Victor Louis Ménage (Oxford: Oxford University Press, 1979), pp. 167–207; Abraham Marcus, *The Middle East on the Eve of Modernity: Aleppo in the Eighteenth Century* (New York: Columbia University Press, 1989), pp. 104–5; Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994); Najwa Al-Qattan, “Dhimmis in the Muslim Court: Documenting Justice in Ottoman Damascus 1775–1860” (PhD diss.), Harvard University, 1996, pp. 63–76; Khoury, “Administrative Practice,” pp. 305–30; Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652–1744)* (Leiden/Boston: E. J. Brill, 2003); and Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003).

a central aspect of the socio-economic transformation experienced by the Ottoman Empire, a topic that is more extensively debated in the Arab region? At this juncture, a discussion centered around the concept of “the death of proprietors” would prove valuable in addressing the aforementioned questions.

Baber Johansen's book, *The Islamic Law on Land Tax and Rent*, serves as the primary source on this subject. Johansen thoroughly examines the evolving Hanafi perspective on land tenure in the Arab lands during the late Mamluk and early Ottoman periods.<sup>70</sup> Drawing on the works of Ibn al-Humâm (1388–1457) and Ibn Nujaym (1520–1563), who sought to define the land tax and rent system of their time, Johansen introduces the concept of “the death of the proprietors.” This notion highlights the loss of peasants' ownership rights and their transition from landowners to tenants who cultivated the land through sharecropping (*muzâra'a*) and tenancy (*ijâra*) contracts.<sup>71</sup> One key aspect emphasized in the writings of Ibn al-Humâm and Ibn Nujaym is that the tribute paid by peasants was not considered *harâc*, which in the classical period referred to a tax imposed on privately owned property, but rather a form of rent paid for the right of land usufruct.<sup>72</sup>

The focal point of this discussion revolves around the term “*ard al-hawz*” or “sequestered lands” as referred to by Kenneth M. Cuno.<sup>73</sup> It can be defined as land that has lost its status as freehold (*mülk*) and has been taken over by the public treasury due to reasons such as abandonment, idleness, or the inability of cultivators to pay the *harâc*.<sup>74</sup> Hanafi jurists generally distinguish between *ard al-hawz* and lands belonging to the public treasury. While *ard al-hawz* cannot be sold but can be leased, land belonging to the treasury can be transferred to new owners. However, Muhammed al-Haskafi (1616–1677) used these terms interchangeably in his writings, which, according to Johansen, strongly sug-

70 Baber Johansen, *Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods* (London; New York: Croom Helm, 1988).

71 Johansen, *Islamic Law on Land Tax and Rent*, pp. 80–97.

72 One of the most important reference books regarding the classical Hanafi interpretation of land tenure is Ebu Yûsuf's *Kitâb al-Kharâj*. See Kadî Ebû Yûsuf, *Kitâbü'l-Harâç*, tans. Ali Özek (İstanbul: Albaraka Yayınları, 2019).

73 Cuno, “Was the Land of Ottoman Syria Miri or Milk?”, pp. 121–52.

74 Johansen, *Islamic Law on Land Tax and Rent*, pp. 103–7; Cuno, “Was the Land of Ottoman Syria Miri or Milk”, p. 124; and Sabrina Joseph, “An Analysis of Khayr Al-Din Al-Ramli's Fatawa on Peasant Land Tenure in Seventeenth-Century Palestine”, *The Arab Studies Journal*, 6/7 (2/1) (1998–1999), pp. 112–27.

gests that the concept of “the death of the proprietors” was accepted by Hanafi scholars.<sup>75</sup>

However, Kenneth Cuno has criticized Johansen’s claim that the conversion of peasants’ lands into public treasury lands was accepted by later Hanafi scholars in Egypt and Syria. Cuno presents a more intricate picture of the land system in Ottoman Syria during the seventeenth to early nineteenth centuries, based on the writings of Khayr al-Dīn al-Ramlī (1585–1671) and Ibn ‘Ābidīn (1784–1836). These scholars defended the interests of local notables and opposed the mainstream Hanafi view that lands sold by the state belonged to the public treasury.<sup>76</sup> Indeed, it would be misleading to assume that objections to this understanding of land tenure were limited to scholars in the Arab provinces of the Ottoman Empire. As an example, in his work *et-Tarīkatü’l-Muhammediye*, Birgivî voiced a criticism of Ebussuûd’s understanding of land tenure. Specifically, Birgivî rejected the legality of the *tapu* fee, arguing that it should be considered as an illicit payment or bribe. This demonstrates that the debates and criticisms regarding land tenure were not confined to a specific region but had broader implications within the intellectual discourse of the time.<sup>77</sup>

Johansen and Cuno have successfully interpreted the views of scholars regarding the system of land ownership during the Mamluk and Ottoman periods. However, neither of them extensively examined the legal status of cultivators, a gap that was later filled by the studies conducted by Martha Mundy, Richard Saumarez Smith, and Sabrina Joseph.<sup>78</sup> All of these studies have contributed to

75 Cuno, “Was the Land of Ottoman Syria Miri or Milk”, p. 125.

76 Cuno, “Was the Land of Ottoman Syria Miri or Milk”, pp. 121–52.

77 Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria* (London and New York: I.B. Tauris, 2007), pp. 16–9, 24; Katharina Anna Ivanyi, “‘And the Question of Lands is Very Confusing’: Birgivi Mehmed Efendi (d. 981/1573) on Land Tenure and Taxation”, *Political Thought and Practice in the Ottoman Empire, Halcyon Days in Crete IX*, a symposium held in Rethymno, 9–11 January 2015, ed. Marinos Sariyannis (Rethymno: Crete University Press, 2019), pp. 137–47; and Katharina Anna Ivanyi, *Virtue, Piety and the Law, A Study of Birgivi Mehmed Efendi’s al-Ṭarīqa al-muḥammadīyya* (Leiden, The Netherlands: Brill, 2020), pp. 222–32.

78 Mundy and Smith, *Governing Property* and Sabrina Joseph, *Islamic Law on Peasant Usufruct in Ottoman Syria* (Leiden: Brill, 2012). Also worth mentioning are two other articles of Martha Mundy in this context; see Martha Mundy, “Ownership or Office? A Debate in Islamic Hanafite Jurisprudence over the Nature of the Military ‘Fief’,”

our understanding of the social, economic, and political dynamics of the respective time periods they focused on. The significant aspect common to all these studies, in relation to our topic, is the process that witnessed the transition of private ownership to the public treasury. However, this situation appears to contradict the classification of certain lands in Crete as *harâcî* under the newly established land regime in 1670, as these lands were granted as private property (*mülk*).

The distinction between *harâcî* and *arz-ı memleket* lands had already been formulated by Ebussuûd in the previous century. However, Ebussuûd's intent in his fatwas was primarily to elucidate the status of lands classified as *arz-ı memleket*. Consequently, the majority of his responses on this matter were directed towards issues pertaining to lands held by the public treasury. Nevertheless, due to the uncommon nature of the land regime implemented in Crete within the context of Ottoman history, there arose a need to provide further clarification regarding the *harâcî* status of these lands, which Minkârîzâde's fatwas effectively addressed. The following two fatwas issued by Minkârîzâde explicitly demonstrate that landowners were the *de facto* possessors of the *harâcî* lands under their control.

Question: If a land in the Abode of War is seized by force, and the land held by the *re'âyâ* is acknowledged, with poll tax imposed on their heads and *harâc* on their lands, is this land considered a valid property like the rest of the properties owned by the *re'âyâ*? Answer: Yes, it is.<sup>79</sup>

---

from the Mamluks to the Ottomans", *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, eds. Alain Pottage and Martha Mundy (New York: Cambridge University Press, 2004), pp. 142–65 and Martha Mundy, "Islamic Law and the Order of State: The Legal Status of the Cultivator", *Syria and Bilad al-Sham under Ottoman Rule, Essays in Honour of Abdul Karim Rafeq*, eds. Peter Sluglett and Stefan Weber (Leiden: Brill, 2010), pp. 399–419. Also see Malissa Taylor, "Keeping Usufruct in the Family: Popular and Juridical Interpretations of Ottoman Land Tenure Law in Damascus", *Bulletin D'études Orientales*, 61 (2012), pp. 429–43 and Malissa Taylor, "Forcing the Wealthy to Pay Their Fair Share? The Politics of Rural Taxes in 17<sup>th</sup>-Century Ottoman Damascus", *Journal of the Economic and Social History of the Orient*, 62/1 (2019), pp. 35–66.

79 Hekimoğlu, 421, 21<sup>a</sup>: "Soru: Dârü'l-harbden bir diyâr 'anveten feth olundukda arâzîsi re'âyâsı yedlerinde takrîr olunub ru'ûslarına cizye ve arâzîlerine harâc vaz' olunsa ol arâzî mezburların sâ'ir emlâkı gibi mülk-i sarîhleri olur mu? El-cevab: Olur." Menteşzâde Abdurrahîm recorded this fatwa as follows (Hamidiye, 610, 32<sup>a</sup>): "Soru: Dârü'l-harbden bir diyâr 'anveten feth olundukda re'âyâsı yedlerinde olan arâzîsinde takrîr olunub ru'ûslarına cizye arâzîlere harâc vaz' olunsa ol arâzî ol re'âyânın sâ'ir emlâkı gibi mülk-i sarîhleri olur mu? El-Cevab: Olur."

Question: Regarding this matter, if the *harâc-ı muvazzaf* and *harâc-ı mukâseme* of this land have been granted as *tîmâr* to certain individuals, and the owners of this land pass away, is it possible for the holders of the fiefs to deny the heirs of these individuals the right to possess these lands, and instead transfer ownership through a title deed? Answer: No, they cannot.<sup>80</sup>

Based on these two fatwas, it can be asserted that landowners of the *harâcî* lands enjoyed not only guaranteed ownership rights but also the ability to pass on these rights to subsequent generations. Minkârîzâde explicitly stated that while the revenues generated from these lands were designated to support the holders of military fiefs, these soldiers were prohibited from transferring these *harâcî* lands to anyone other than the rightful heirs of the landowners. Furthermore, in addition to the aforementioned two fatwas, the subsequent fatwa provides evidence of the unquestionable guarantee of ownership rights for those individuals who were subjected to both the poll tax (*jizya*) and *harâc* on their lands. Minkârîzâde issued a legal opinion stating that the usufruct rights granted to *sipâhîs* should be abolished, and the lands should be returned to their previous owners:

Question: In a territory within the Abode of War that was captured by force, the land in the possession of the *re'âyâ* was acknowledged, and poll tax was imposed on their heads, while *harâc* was imposed on their lands. Subsequently, after the death of the owners and the dispersion of their descendants due to the invasion of oppressors, if the *sipâhî* grants the land to certain individuals through an *icâre* arrangement documented by title deed, is it permissible for the previous landholders to remove those who acquired the land through *icâre* afterwards? Answer: Yes, it is.<sup>81</sup>

80 Hekimoğlu, 421, 21<sup>a</sup>: “Soru: Bu sûretde ol arâzînin harâc-ı muvazzaf ve mukâsemeleri ba’zı kimesnelere tîmâr bağlanmış olsa ol arâzîye mâlik olanlar fevt olduklarından tasarruflarında bulunan arâzîyi erbâb-ı tîmâr veresesine zabt itdirmeyüb tapu ile virmeğe kâdir olur mu? El-cevab: Olmazlar.” Menteşzâde Abdurrahîm recorded this fatwa as follows (Hamidiye, 610, 32<sup>a</sup>): “Soru: Bu sûretde ol arâzînin harâc-ı muvazzaf ve mukâsemeleri ba’zı kimesnelere tîmâr bağlanmış olsa ol arâzîye mâlik olanlardan ba’zı fevt oldukda tasarruflarında bulunan arâzîyi erbâb-ı tîmâr veresesine zabt itdirmeyüb tapu ile virmeğe kâdir olurlar mı? El-Cevab: Olmazlar.”

81 Hekimoğlu, 421, 21<sup>a</sup>: “Soru: Dârü’l-harbden bir diyâr ‘anveten feth olundukda re’âyâsı yedlerinde olan arâzîde takrîr olunub ru’ûslarına cizye ve arâzîlerine harâc vaz’ olunub bâ’dehû mezbûrlar fevt olub vârislerine intikâl itdükden sonra zaleme istilâsıyla perişân olduklarından sipâhî icâre tapusuyla virse hâlâ geldiklerinde mezbûrlar âhardan alub zabta kâdir olurlar mı? El-Cevab: Olurlar.” Menteşzâde Abdurrahîm

Setting aside the aforementioned issues, it can be argued that the primary motive for the Ottoman administration in determining the status of lands in Crete was to maximize their revenue. In this context, this perspective aligns with Abou-El-Haj's observation, which states: "[T]his was a change of some moment, for it indicates a transition from an established, and on the whole, stable system of revenue collection to a situation in which fixed rules no longer obtained, and in which maximization of revenues became the one and only concern."<sup>82</sup> The following fatwa provides a good example supporting the point that Ottoman officials did not necessarily intend to designate the lands in Crete as *harâcî* even if it was conquered by force.

Question: When Crete was under the control of infidels, the army of Islam forcefully invaded and conquered several castles. Some of the infidels residing in these castles refused to accept the possession of the land and fled to the Abode of War. The *defterdâr*, who was in charge, collected a specified amount of *akçes* from certain individuals for the imperial treasury. These individuals cultivated the land and paid the harvest of *öşr* to the designated people. However, if the cultivators were not granted ownership of the lands, could the representative of the treasury, under an imperial decree, still allocate the aforementioned lands to those who are willing to pay *harâc-ı muvazzaf* and *mukâseme* or an equivalent amount through *icâre*? Answer: Yes.<sup>83</sup>

---

recorded this fatwa as follows (Hamidiye 610, 31<sup>b</sup>): "Soru: Dârü'l-harbden bir diyâr 'anveten feth olundukda re'âyâsı yedlerinde olan arâzilerinde takrîr olunub ru'ûslarına cizye ve arâzilerine harâc vaz' olunub bâ'dehû kürur-u a'vâm ile ol arâzî batrîk Alaris? hâlâ mutasarrıfları olan re'âyâyâ intikâl itdükden sonra ba'zı zaleme istilâsıyla ol re'âyâ etrâfa perîşân olub üç sene zirâ'at olunmamağla karyelerinin sipâhîleri tapu nâmına ehl-i İslâm'dan ba'zı kimesnelerin bir mikdâr akçelerini alub ol arâzîyi ol kimesnelere vermiş olsalar hâlâ re'âyâ istimâlet virilmekle yerlerine geldiklerinde ol arâzilerini mülk-i mevrûsları olmağla vâzî'ül yed olanlardan alub ke'l-evvel zabta kâdir olurlar mı? El-Cevab: Olurlar."

82 Rifa'at 'Ali Abou-El-Haj, *Formation of the Modern State, The Ottoman Empire Sixteenth to Eighteenth Centuries*, (New York: Syracuse University Press, 2005), p. 13. It also seems to be in line with the principle of fiscalism, which Mehmet Genç defines as "[I]n its most general and concise definition, fiscalism is the effort to maximize the revenues of the treasury as much as possible and to prevent it from falling below the level it has reached." See, Mehmet Genç, "Osmanlı İktisadî Dünya Görüşünün İlkel-eri", *İstanbul Üniversitesi Sosyoloji Dergisi*, 3/1 (1989), pp. 175–86, at 182–3.

83 Hamidiye, 610 33<sup>a</sup>: "Soru: Cezîre-i Girid harbî keferi yedinde iken 'asker-i İslâm müstevlî olub ba'zı kılâ'anı 'anveten feth itdüklerinde ol kılâ'a tâbî' olan keferenin ba'zı zimmet kabûl itmeyüb dârü'l-harbe firâr etmekle arâzilerini defterdâr olan kimesne

*Ijâra* (also known as *icâre* in Turkish) or “tenancy” refers to the transfer of land use from the possessor to the tenant in exchange for rent payment. According to Baber Johansen, “the most important legal institution that contributes towards transforming the possession of arable lands into rent-yielding property is the contract of tenancy (*ijâra*).”<sup>84</sup> In this fatwa, Minkârîzâde states that it is legally permissible to grant the land in question either as *harâcî* or through *ijâra*. This means that the land can be given as freehold or rented. As previously mentioned, since the land was acquired by force, Islamic law allows the political authority to utilize it in either manner. However, it should be explicitly noted that such an option exists only if there is an imperial decree.

Considering how the practical implications of the questions posed in these fatwas were addressed, it could be argued that the Ottomans did not adhere to a consistent land regime policy in Crete, leading some historians to categorize the Cretan case as an “experiment.”<sup>85</sup> In other respects, there is also not enough reason to describe the *harâcî* status of the land in Crete as unique, because the Ottomans did not change the land tenure of certain other frontier territories, such as Basra and Lesbos, allowing private ownership of land.<sup>86</sup> Instead of comparing the various land regimes implemented in Crete with previous practices, a more fruitful avenue of investigation would be to explore how the Cretan example served as a precursor to the subsequent changes in Ottoman fiscal and financial administration in the following decades.<sup>87</sup>

---

me'mûr olmağla ba'zı kimesnelerin beytül-mâl için bir mikdâr akçelerini alub ol kimesneler ol arâziyi eküb biçüb 'öşr mahsûllerinden ta'yîn olunan yirlere edâ itmek üzere ol kimesnelere virüb lâkin temlik itmemiş olsa ba'dehû ol kimesneler niçe sene minvâl-i muharrer üzere tasarruf idüb virdüklerini istîfâ itmiş olsalar emîn-i beytül-mâl emr-i sultânî ile ol yirleri mezbûrlardan harâc-ı muvazzaf ve mukâseme ile yâhûd harâc mikdârı icâre ile tâlib olanlara virmeğe kâdir olur mu? El-cevab: Olur.”

84 Johansen, *Islamic Law on Land*, p. 25.

85 Greene, “An Islamic Experiment?,” pp. 60–78 and Kermeli, “Caught in between Faith and Cash,” pp. 1–32.

86 Dina Rizk Khoury, “Administrative Practice Between Religious Law (*Shari'a*) and State Law (*Kanun*) On the Eastern Frontiers of the Ottoman Empire,” *Journal of Early Modern History*, 5/4, (2001), pp. 305–30, at 318; Akgündüz, *Osmanlı Kanunnâm-eleri*, vol. XI, pp. 515–20; and Barkan, *Ziraî Ekonominin Hukukî ve Malî Esasları*, pp. 332–8.

87 It should be mentioned in this context that Abu Yusuf (d. 798)'s *Kitâb al-Khâraj* was translated by Rodosizâde Mehmed into Turkish during the tenure of Kara Mustafâ Pasha. See Ekin Tuşalp Atiyas, “The ‘Sunna-Minded’ Trend”, *A History of Ottoman*



In this context, it is worth noting that the Ottomans abolished the old system of the poll tax (*jizya*) in 1691 by implementing a standardized rate based on three socio-economic classes (poor, middle, and rich). It is important to remember that this system had already been applied in Crete and the Aegean islands since 1670.<sup>88</sup> Similarly, another relevant question concerns the extent to which the taxation method employed in Crete contributed to the decision of Ottoman officials to introduce a new fiscal practice in 1695, namely the implementation of the lifetime revenue tax farm (*mâlikâne*).<sup>89</sup> Here, an important question arises: Did the allocation of lands as private property in Crete serve as a precursor to larger transformations within the Ottoman Empire, such as the implementation of privatizing fiscal policies in subsequent years?<sup>90</sup>

This is an important question because if any aspect of the Ottoman policy in Crete deviated from the traditional Ottoman arrangements and possibly had an impact on subsequent developments, it was the new registration practices. Elias Kolovos, with a specific focus on the Ottoman surveys conducted between 1670 and 1671 for Crete and smaller Aegean islands, argues that the Ottomans introduced new registration practices in the latter half of the seventeenth century,

---

*Political Thought up to the Early Nineteenth Century*, ed. Marinos Sariyannis (Brill: Leiden, 2019), pp. 233–78, at 268.

88 Elias Kolovos, “Beyond ‘Classical’ Ottoman Defterology: A Preliminary Assessment of the Tahrir Registers of 1670–71 Concerning Crete and the Aegean Islands”, *The Ottoman Empire, the Balkans, the Greek Lands: Toward a Social and Economic History (Studies in Honor of John C. Alexander)*, eds. Elias Kolovos, Phokion Kotzageorgis, Sophia Laiou and Marinos Sariyannis (Istanbul: Isis Press, 2007), pp. 201–35 and Marinos Sariyannis, “Notes on the Ottoman Poll-Tax Reforms of the Late Seventeenth Century: The Case of Crete”, *Journal of the Economic and Social History of the Orient*, 54 (2011), pp. 39–61.

89 For more information about *Mâlikâne*, see Mehmet Genç, “Osmanlı Maliyesinde *Malikâne* Sistemi”, *Türkiye İktisat Tarihi Semineri, Metinler/Tartışmalar*, 8–10 Haziran 1973, eds. Osman Okyar and Hasan Ünal Nalbantoğlu (Ankara: Hacettepe Üniversitesi Yayınları, 1975), pp. 231–96; Avdo Suceška, “*Malikâne* (Osmanlı İmparatorluğunda Mirî Toprakların Yaşam Boyu Tasarruf Hakkı)”, trans. M. Özyüksel, *İstanbul Üniversitesi İktisat Fakültesi Mecmuası*, 41/1–4 (1984), pp. 273–82; Mehmet Genç, “*Mâlikâne*”, *TDV İslâm Ansiklopedisi*, 27, 2003, pp. 516–8; Ariel Salzmann, “An Ancien Régime Revisited: ‘Privatization’ and Political Economy in the Eighteenth-Century Ottoman Empire”, *Politics & Society*, 21/4 (1993), pp. 393–423; Erol Özvar, *Osmanlı Maliyesinde Malikâne Uygulaması* (İstanbul: Kitapevi, 2003).

90 For more information on the use of the term privatization in the Ottoman Empire, see: Salzmann, “An Ancien Régime Revisited”, pp. 393–423.

thereby transforming the traditional *tahrir* registers. They implemented more sophisticated survey methodologies to enhance the accuracy of projected revenues from registered areas.<sup>91</sup> One notable characteristic of this survey, in contrast to previous ones, was that Ottoman officials recorded after the village name not the village households but the names of the landholders in a tabulated format.

Kolovos's inference gains further significance when considering that Ottoman officials employed the same approach in various regions. This includes the Edirne register of 1670,<sup>92</sup> the Aegean islands in 1670/1671,<sup>93</sup> Morea in 1716, and Smederevo in 1741, which demonstrates "the fictivity of the entries of products."<sup>94</sup> In connection to this, the following two fatwas serve as a valuable starting point for investigating the conjectural aspect of the land register in Crete.

Question: Following the conquest of Crete, when the land was registered but the *harâc* was set at a lower rate, if an imperial order was issued to establish the *harâc-ı muvazzaf* according to the prescriptions of [the Caliph] Umar (may God

- 
- 91 Kolovos, "Beyond 'Classical' Ottoman Defterology", and Gülsoy, "Osmanlı Tahrir Geleneğinde Bir Değişim Örneği", p. 194.
- 92 Stefka Parveva, "Rural Agrarian and Social Structure in the Edirne Region during the Second Half of the Seventeenth Century", *Études balkaniques*, (2000/3), pp. 55–90; Stefka Parveva, "Agrarian Land and Harvest in the South-west Peloponnese in the Early Eighteenth Century", *Études balkaniques*, (2003/1), pp. 83–123; Stefka Parveva, "Villages, Peasants and Landholdings in the Edirne Region in the Second Half of the 17<sup>th</sup> Century", *Regions, Borders, Societies, Identities in Central and Southeast Europe, 17<sup>th</sup>–21<sup>st</sup> Centuries, Bulgarian-Hungarian History Conference, Sofia, 16–17 May 2012*, eds. Penka Peykovska and Gábor Demeter (Sofia-Budapest: Hungarian Academy of Science, 2013), pp. 15–34; Gürer Karagedikli, "A Study on Rural Space, Land and Socio-Agrarian Structure in Ottoman Edirne, 1613–1670" (PhD diss.), Middle East Technical University, 2017; and Gürer Karagedikli, "Erken Modern Osmanlı İmparatorluğu'nda Devlet, Toprak ve Kayıt Pratikleri: 1670–1671 Edirne Tahriri Bize Ne Anlatır?", *Hacettepe Üniversitesi Türkiyat Araştırmaları*, 31 (2019), pp. 7–28.
- 93 Evangelia Balta, "The Ottoman Surveys of Siphnos (17<sup>th</sup>–18<sup>th</sup> Centuries)", *Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi*, 18 (2006), pp. 51–69 and Parveva, "Agrarian Land and Harvest", pp. 61–110.
- 94 Miroslav Pavlović, "Postclassical Defterology: Possibilities of Socio-Economic Research in Contemporary Ottoman Studies", *Istraživanja, Journal of Historical Researches*, 26 (2015), pp. 66–81, at 72. It should be noted, however, that the classical land survey also continued to be applied in some regions like Podolia; see Dariusz Kołodziejczyk, *The Ottoman Survey Register of Podolia (ca. 1681) Defter-i Mufasssal-i Eyalet-i Kamaniçe* (Cambridge: Harvard University Press, 1994).

be pleased with him), and the *harâc-ı mukâseme* was to be determined as  $\frac{1}{3}$  or  $\frac{1}{4}$  or  $\frac{1}{5}$  of the crop, can the taxes still be determined in the manner described? Answer: Yes.<sup>95</sup>

Question: When the island of Crete was under the control of infidels, the army of Islam forcefully invaded and conquered several castles and some of the non-Muslims residing in these castles refused to accept the possession of the land and fled to the land of the enemy. The commander of the soldiers granted their lands as *mülk* to certain Muslims, with their annual *‘öşr* being converted into a fixed amount of *akçes*. However, if the revenue generated from the fixed amount was significantly lower than the harvest of *‘öşr*, can the trustee of the royal treasury refuse to accept the fixed amount and demand the *‘öşr* through an imperial decree? Answer: Yes, he can.<sup>96</sup>

In the first fatwa, it is worth noting that there were two types of *harâc* taxes: *harâc-ı muvazzaf* and *harâc-ı mukâseme*. *Harâc-ı muvazzaf* was collected annually in cash, while *harâc-ı mukâseme* was imposed on the crop yield at a rate of  $\frac{1}{10}$  or  $\frac{1}{8}$ , depending on the land's capacity. If the land was fertile, the rate of *harâc-ı mukâseme* could be increased to  $\frac{1}{2}$ , as per Islamic principles.<sup>97</sup> Although

95 Hekimoğlu, 421, 25<sup>b</sup>: “Soru: Girid cezîresi feth-u teshîr olunub arâzisini tahrîr itdükde harâcını az tahrîr itmekle hâlâ harâc-ı muvazzaf Hazret-i ‘Ömer radiyallâhu anh tevzîfî mikdârı ve harâc-ı mukâsemesi mahsûlün ya nısfı, ya sülüsü, ya rub’u ya humusu mikdârı vaz’ olunmak üzere emr-i sultânî sâdr olsa vech-i meşrûh üzere vaz’ meşrû’ olur mu? El-Cevab: Olur.” Menteşzâde Abdurrahîm recorded this fatwa as follows (Hamidiye 610, 32<sup>b</sup>): “Soru: Girid cezîresi feth-u teshîr olunub arâzisini muhar-rir tahrîr itdükten sonra harâcını az tahrîr itmiş olmağla hâlâ harâc-ı muvazzaf Hazret-i ‘Ömer radiyallâhu anh tevzîfî mikdârı ve harâc-ı mukâseme hâric ve hâsılın ya nısfı, ya sülüsü, ya rub’u ya humusu mikdârı vaz’ olunmak üzere emr-i sultânî sâdr olsa vech-i meşrûh üzere vaz’ olunur mu? El-Cevab: Olunur.”

96 Hamidiye, 610, 32<sup>b</sup>–33<sup>a</sup>: “Soru: Cezîre-i Girid keferiye harbî yedlerinde iken ‘asker-i İslâm müstevlî olub ba’zı kılâ’ını ‘anveten feth itdüklerinde ol kılâ’a tâbî keferenin ba’zı zimmet kabûl itmeyüb dârü’l-harbe firâr itmekle arâzilerini serdâr-ı ‘asker-i İslâm ba’zı müslümânlara mülkiyyet üzere ‘öşr-i mahsûlünden bedel senede şu kadar akçeye maktû’ idüb mezbûr ‘öşr mahsûlünden noksan fâhiş ile nâks olsa hâlâ emr-i sultânî ile emîn-i beytül-mâl maktû’ almayub ol arâziden ‘öşr-i mahsûl almağa kâdir olur mu? El-cevab: Olur.”

97 For more information about these taxes, see Mehmet Zeki Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, vol. I (İstanbul: Milli Eğitim Bakanlığı Yayınları, 1983), pp. 734–6; Ömer Nasuhi Bilmen, *Hukuk-u İslamiyye ve Istılahat-ı Fıkhiyye Kamusu*, vol. IV (İstanbul: Bilmen Basımevi, 1985), pp. 75, 82–3; Akgündüz, *Osmanlı Kanun-nâmeleri*, vol. I, pp. 169–81; Cengiz Kallek & DİA, “Haraç”, *TDV İslâm Ansiklopedisi*,

this fatwa does not specify the exact rate of *harâc* to be collected, according to the *kânûnnâme* of Crete, *harâc-ı mukâseme* was set at  $\frac{1}{5}$  of the crop.<sup>98</sup> However, Minkârîzâde stated that collecting *harâc-ı mukâseme* up to the rate of half is permissible in accordance with Islamic principles.<sup>99</sup>

An amendment made to the *kânûnnâme* of 1670 in 1675 stipulated that due to the unproductive and mountainous nature of the lands in Crete, and the fact that people were no longer able to cultivate them, the *harâc* taxes would be reduced from  $\frac{1}{5}$  to  $\frac{1}{7}$ . This reduction was aimed at incentivizing people to engage in agricultural activities and cultivate the land.<sup>100</sup> These processes demonstrate that new regulations were formulated by taking into account the interaction between local demands, the preferences of the central administration, and through a negotiation process involving multiple parties who were involved in the preparation of these laws.<sup>101</sup>

### Conclusion

Although Minkârîzâde was one of the longest-serving chief jurist in the seventeenth century, his role during his tenure has been widely overlooked or underestimated in scholarly literature. The dominance of the Kadızadeli on the seventeenth-century religious scene, the portrayal of Vâni Mehmed as the leader of the third wave of this movement, and the rule of the powerful Köprülü family all contributed to this image of him. However, when considering the centuries-long process of consolidation in the Ottoman learned hierarchy and Minkârîzâde's 12-year tenure, it can be argued that this does not reflect what actually happened.

---

16, 1997, pp. 71–88, 88–90; and Cengiz Orhonlu, “K̲harād̲j̲”, *Encyclopedia of Islam*, 2<sup>nd</sup> edition, IV, 1990, pp. 1053–5.

98 Akgündüz, *Osmanlı Kanunnâmeleri*, vol. X, p. 940; Barkan, *Ziraî Ekonominin Hukukî*, p. 351; and Gülsoy, “Tahrir Geleneğinde Bir Değişim Örneği”, p. 201.

99 For the agriculture in Crete, see Georgios Vidras, Christos Kyriakopoulos and Elias Koloivos, “The Rural Economy of Ottoman Crete (1650–1670): A Spatial Approach”, *Études balkaniques*, 55/4 (2019), pp. 801–30.

100 Despite this, however, this change was not actually implemented in practice. See Nuri Adıyeke and Ayşe Nühket Adıyeke, “Girit’in ‘Hakk ve Adl ile Cediden Tahrîri’: 1705 Yılında Girit’te Yapılan Tahrirler ve Düzenlemeler”, *Belleten*, 84/299 (2020), pp. 203–45, at 223, appendix.

101 For a similar approach on this topic, see Abdurrahman Atçıl, “Memlûklerden Osmanlılara Geçişte Mısır’da Adli Teşkilât ve Hukuk (922–931/1517–1525)”, *İslâm Araştırmaları Dergisi*, 38 (2017), pp. 89–121.

Minkârîzâde was far from being an insignificant player in his era as a scholar-bureaucrat. On the contrary, he played an indispensable role in shaping the primary religious, administrative, and intellectual trends of the seventeenth century. One of the methods of revealing the roles played by Minkârîzâde in his period is to examine the fatwas he issued regarding the developments of his time. In this context, the conquest of Crete in 1669 after a 25-year siege during Minkârîzâde's tenure as the chief jurist, and the subsequent formulation of the *kânûnnâme*, present a unique opportunity to examine Minkârîzâde's fatwas concerning the subject.

In this article, I recontextualized the land codes that were implemented in Crete following its ultimate conquest in 1669, using Minkârîzâde's fatwas. To this end, I showed that the compilation of fatwas known as *Fetâvâ-yı Abdurrahîm* includes the fatwas belonged to Minkârîzâde as well. The revelation that the fatwas attributed to Menteşzâde Abdurrahîm, who served as the chief jurist between 1715 and 1716, and whose fatwas have been considered a reflection of the realities of the eighteenth century, actually belong to the previous century, highlights the erroneous nature of the approach that promotes a timeless and placeless utilization of fatwas.<sup>102</sup> This point is very crucial because, as Khaled Abou El Fadl aptly argues, "the fact that Islamic law is divine in origin should not conceal the fact that it creatively responds to the socio-political dynamics of society placed within a specific historical context."<sup>103</sup> It is for this reason that identifying the inclusion of fatwas issued by Minkârîzâde in the fatwa compilation prepared by Menteşzâde Abdurrahîm, as demonstrated in this article, represents an important step in examining his fatwa compilations within their proper historical context. Undoubtedly, this finding presents new perspectives for historians specializing in seventeenth-century Ottoman history.

Moreover, I questioned the widely accepted generalization that the land system in Crete was classified as *harâcî* following the conquest in 1669. As evidenced by several of Minkârîzâde's fatwas, there were also lands in Crete that were not

102 For example, a recent study that disregards the importance of contextualizing the fatwas within their historical framework has examined the topic of legal life in the eighteenth-century Ottoman Empire by solely examining the presumed fatwas attributed to Menteşzâde Abdürrahîm. See, Ravza Cihan, *Şeyhülislâm Abdürrahîm Efendi'nin Fetvaları Işığında XVIII. Yüzyılda Osmanlı'da Hukukî Hayat* (Ankara: Türkiye Diyanet Vakfı Yayınları, 2021).

103 Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001), p. 322.

granted as *harâcî* but designated as state land (*arz-ı memleket*). This point is crucial as it challenges the notion that defining the land system of Crete as *harâcî* in its *kânûnnâme* represented a radical departure from previous tax systems based on *kânûn*, and ultimately signifies a triumph of sharia over *kânûn*. Instead, what is being attempted to be demonstrated, in line with recent literature, is that the sultanic law (*kânûn*) and the sharia came together within a shared domain, intricately interwoven, to form a compatible system. In connection with this, it has been also verified the recent academic endeavors that emphasize the preparation of local laws through a process of negotiation among relevant multiple parties, considering the interaction between local demands and the preferences of the central administration.

Finally, I observed a notable departure from the classical Ottoman arrangements in relation to Crete in the realm of new registration practices. In this regard, the Ottomans implemented more sophisticated survey methods to enhance the accuracy of revenue projections for the registered territories. A distinguishing characteristic of this survey, differentiating it from previous practices, was the recording of village names prior to sorting the names of the landholders. This particular approach can be considered as a precursor to the transformations that occurred in the Ottoman fiscal and financial administration in the subsequent years. In particular, when considering the introduction of the *Mâlikâne* system in 1695 and the reliance on revenue projections based on the anticipated tax amount from the lands to be incorporated into this system, the implementation of such a registration system in regions like Crete emerges as a novel aspect of the Ottoman State's economy and forerunner of the privatizing fiscal policies in the next years. This system, along with the subsequent privatizing fiscal policies, signifies a precursor to the ongoing process of monetization that the Ottoman Empire had been undergoing for decades. Not only will such assessments shed new light on the economic landscape of regions like Crete, but they will also provide fresh insights into the landownership practices implemented in diverse geographic areas of the Ottoman Empire.

*Unveiling the Cretan Land Regime: Insights from Minkârîzâde Yahyâ's Fatwas*

**Abstract** ■ During the Köprülü Era (1656–1683), with the exception of campaigning on the northern borders, the sole military campaign which was conducted occurred at the town of Candia in Crete, which surrendered in 1669. With the enactment of the legal code (*kânûnnâme*) in 1670, the lands of this island were designated as *harâcî* rather than the prevalent *mîrî* land in the Ottoman Empire. Although various historians have analyzed this seemingly exceptional situation on the island, this issue has not been addressed in the light of the fatwas of Minkârîzâde Yahyâ (d. 1678), who served as the chief jurist from 1662 to 1674. In order to fill this gap in the literature, this article aims to recontextualize the newly established land regime in Crete subsequent to its final conquest by the Ottoman Empire in 1669, taking into consideration the fatwas issued by Minkârîzâde Yahyâ. In this context, this article has two main objectives. The first is to establish that the fatwas concerning Crete, commonly attributed to Mentêşzâde Abdurrahîm (d. 1716), actually belong to Minkârîzâde; the second is to move the discussion of the land regime in Crete from its current place in the literature being analyzed around the question of whether sharia prevailed over Ottoman law in the seventeenth century to the center of the historical debate known as the “death of the proprietors.”

**Keywords:** Ottoman Crete, Minkârîzâde Yahyâ, Fatwas, *Harâcî* Land Regime, Legal Code.

## Bibliography

### Primary sources

Atâullâh Mehmed Efendi, *Fetâvâ-yı Atâullâh*.

Süleymaniye Yazma Eserler Kütüphanesi

- Esad Efendi, 1095
- Hekimoğlu, 421
- Fatih, 2386
- Laleli, 1264

İstanbul Müftülüğü, 144

Minkârîzâde Yahyâ, *Fetâvâ*.

Süleymaniye Yazma Eserler Kütüphanesi

- Aşir Efendi, 137
- Hamidiye, 610

Nuruosmaniye Yazma Eserler Kütüphanesi

- Nuruosmaniye, 2001; 2002; 2003; 2037



Harvard Law School Library, HLS MS, 1402.

Yahyâ Efendi, *Fetâvâ-yı Yahyâ Efendi*.

Süleymaniye Yazma Eserler Kütüphanesi

- Esad Efendi, 1088

- Serez, 1116

Hacı Selim Ağa Yazma Eserler Kütüphanesi

- Hacı Selim Ağa, 449

Konya Yazma Eserler Kütüphanesi

- Burdur İl Halk Kütüphanesi, 1980

Nuruosmaniye Yazma Eserler Kütüphanesi

- Nuruosmaniye, 2056

Kadî Ebû Yûsuf: *Kitâbü'l-Harâç*, trans. Ali Özek, İstanbul: Albaraka Yayınları 2019.

Menteşzâde Abdurrahîm Efendi: *Fetâvâ-yı Abdürrahîm*, vol. 1–2, İstanbul: Dârü't-Tibâati'l-Ma'mûreti's-Sultânîyye 1827.

Naîmâ Mustafâ Efendi: *Târih-i Na'imâ (Ravzatü'l-Hüseyn fî Hulâsati Ahbâri'l-Hâfıkayn)*, vol. 1–4, ed. Mehmet İpşirli, Ankara: Türk Tarih Kurumu 2007.

*Osmanlı Arşivi'nde Şeyhülislam Fetvaları*, eds. Sinan Çuluk and Yılmaz Karaca, İstanbul: T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü 2015.

Zayıf Mustafa bin Musa: *Tarih-i Sefer ve Feth-i Kandiye*, *Fazal Ahmed Paşa'nın Girit Seferi ve Kandiye'nin Fethi (1666–1669)*, ed. Meltem Aydın, İstanbul: Demavend Yayınları 2015.

### Secondary sources

Abou-El-Haj, Rifa'at 'Ali: *Formation of the Modern State, The Ottoman Empire Sixteenth to Eighteenth Centuries*, New York: Syracuse University Press 2005.

Adıyeke, Ayşe Nûkhet and Nuri Adıyeke: *Fethinden Kaybına Girit*, İstanbul: Babıalı Kültür Yayıncılığı 2007.

.....: *Osmanlı Dönemi Kısa Girit Tarihi*, İstanbul: Türkiye İş Bankası Kültür Yayınları 2021.

Adıyeke, Nuri and Ayşe Nûkhet Adıyeke: "Girit'in 'Hakk ve Adl ile Cedîden Tahrîri': 1705 Yılında Girit'te Yapılan Tahrirler ve Düzenlemeler", *Belleten*, 84/299 (2020), pp. 203–45.

Adıyeke, Nuri: "Fatih Paşalar'ın Kendilerine Armağanı, Osmanlı Girit'inde Temlik/Mülk Köyler", *Venetians and Ottomans in the Early Modern Age Essays on Economic and Social Connected History*, ed. Anna Valerio, Venezia: Edizioni Ca' Foscari Digital Publishing 2018, pp. 97–110.

Akgündüz, Ahmed: *Osmanlı Kanunnâmeleri ve Hukûkî Tahlilleri*, vol. 1–11, İstanbul: Osmanlı Araştırmaları Vakfı 1990–2016.

- Alexander, John Christos: *Toward a History of Post-Byzantine Greece: The Ottoman Kanun-names for the Greek Lands, circa 1500 – circa 1600*, Athens, 1985.
- Al-Qattan, Najwa: *Dhimmi in the Muslim Court: Documenting Justice in Ottoman Damascus 1775–1860*, PhD diss., Harvard University, 1996.
- Andreasyan, Hrand D. & Fahri Çetin Derin (eds.): “Çınar Vak’ası (Eremya Çelebi Kömürcüyan’a göre)”, *İstanbul Enstitüsü Dergisi*, 3 (1957), pp. 57–83.
- Atçıl, Abdurrahman: “Memlükler’den Osmanlılar’a Geçişte Mısır’da Adli Teşkilât ve Hukuk (922–931/1517–1525)”, *İslâm Araştırmaları Dergisi*, 38 (2017), pp. 89–121.
- Ayoub, Samy A.: *Law, Empire and the Sultan: Ottoman Imperial Authority and Late Hanafi Jurisprudence*, New York: Oxford University Press 2020.
- Balta, Evangelia: “The Ottoman Surveys of Siphnos (17<sup>th</sup>–18<sup>th</sup> Centuries)”, *Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi*, 18 (2006), pp. 51–69.
- Barkan, Ömer Lûtfi: “İslâm-Türk Mülkiyet Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller, II, Mülk Topraklar ve Sultanların Temlik Hakkı”, *İstanbul Hukuk Fakültesi Mecmuası*, 7/1 (1941), pp. 157–76.
- .....: “İslâm-Türk Mülkiyet Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller, III, İmparatorluk Devrinde Toprak Mülk ve Vakıflarının Hususiyeti”, *İstanbul Hukuk Fakültesi Mecmuası*, 7/4 (1941), pp. 906–42.
- .....: “Osmanlı İmparatorluğu’nda Bir İskân ve Kolonizasyon Metodu Olarak Vakıflar ve Temlikler, I, İstilâ Devirlerinin Kolonizatör Türk Dervişleri ve Zâviyeler”, *Vakıflar Dergisi*, 2 (1942), pp. 279–386.
- .....: *XV ve XVI’ncı Asırlarda Osmanlı İmparatorluğunda Zirâi Ekonominin Hukukî ve Malî Esasları, vol 1: Kanunlar*, İstanbul: Bürhaneddin Matbaası 1943.
- .....: “Türk-İslam Toprak Hukuku Tatbikatının Osmanlı İmparatorluğu’nda Aldığı Şekiller, Malikâne-Divânî Sistemi”, *Türkiye’de Toprak Meselesi Toplu Eserler*, I, İstanbul: Gözlem Yayınları 1980, pp. 151–208.
- .....: “Türkiye’de Toprak Meselesinin Tarihi Esasları”, *Türkiye’de Toprak Meselesi, Toplu Eserler*, I, İstanbul: Gözlem Yayınları 1980, pp. 125–49.
- Bekar, Cumhur: *The Rise of the Köprülü Family: The Reconfiguration of Vizierial Power in the Seventeenth Century*, PhD diss., Leiden University, 2019.
- .....: “‘The Ottoman Revolution of 1661’: The Reconfiguration of Political Power under Mehmed IV and Köprülü Grand Viziers”, *Journal of Early Modern History*, 27 (2023), pp. 224–53.
- Bilmen, Ömer Nasuhi: *Hukuk-u İslamiyye ve Istilahat-ı Fıkhiyye Kamusu*, vol. 1-8, İstanbul: Bilmen Basımevi 1985.
- Buzov, Snjezana: *The Lawgiver and His Lawmakers: Discourse in the Change of Ottoman Imperial Culture*, PhD diss., The University of Chicago, 2005.
- Çelik, Ahmet Faruk: “Minkârizâde Yahya Efendi’nin Fetvalarının Fetâvâ-yı Abdurrahim Olarak Tedavüle Girişi Üzerine Değerlendirmeler”, *Marmara Üniversitesi İlahiyat Fakültesi Dergisi*, 60 (2021), pp. 57–76.

- .....: XVII. Yüzyıl Osmanlı Merkez ve Taşrasında Fetva ‘Kitabu’s-Siyer Örneği, MA Thesis, Marmara Üniversitesi, 2018.
- Cuno, Kenneth M.: “Was the Land of Ottoman Syria Miri or Milk? An Examination of Juridical Differences within the Hanafi School”, *Studia Islamica*, 81 (1995), pp. 121–52.
- El Fadl, Khaled Abou: *Rebellion and Violence in Islamic Law*, Cambridge: Cambridge University Press 2001.
- El Shamsy, Ahmed: *Rediscovering the Islamic Classics: How Editors and Print Culture Transformed an Intellectual Tradition*, Princeton: Princeton University Press 2020.
- Ergene, Boğaç A.: *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652–1744)*, Leiden/ Boston: E. J. Brill 2003.
- .....: “Qanun and Sharia”, *The Ashgate Research Companion to Islamic Law*, eds. Rudolph Peters and Peri Bearman, Burlington VT: Ashgate 2014, pp. 109–20.
- Finkel, Caroline: *Osman’s Dream: The Story of the Ottoman Empire 1300–1923*, London: John Murray Publishers 2005.
- Genç, Mehmet: “Osmanlı Maliyesinde Malikâne Sistemi”, *Türkiye İktisat Tarihi Semineri, Metinler/Tartışmalar*, 8–10 Haziran 1973, eds. Osman Okyar and Hasan Ünal Nalbantoğlu, Ankara: Hacettepe Üniversitesi Yayınları 1975, pp. 231–96.
- .....: “Osmanlı İktisadî Dünya Görüşünün İlkeleri”, *İstanbul Üniversitesi Sosyoloji Dergisi*, 3/1 (1989), pp. 175–86.
- .....: “Mâlikâne-Divânî”, *TDV İslâm Ansiklopedisi*, 27, 2003, pp. 518–9.
- .....: “Mâlikâne”, *TDV İslâm Ansiklopedisi*, 27, 2003, pp. 516–8.
- Gerber, Haim: *Sharia, Kanun and Custom in the Ottoman Law: The Court Records of 17<sup>th</sup>-century Bursa*, *International Journal of Turkish Studies*, 2/1 (1981), pp. 131–47.
- .....: *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective*, Albany: State University of New York Press 1994.
- Greene, Molly: “An Islamic Experiment? Ottoman Land Policy on Crete”, *Mediterranean Historical Review*, 2/1 (1996), pp. 60–78.
- .....: *A Shared World: Christians and Muslims in the Early Modern Mediterranean*, Princeton, N.J.: Princeton University Press 2000.
- Gülsoy, Ersin: “Osmanlı Tahrir Geleneğinde Bir Değişim Örneği: Girit Eyaleti’nin 1650 ve 1670 Tarihli Sayımları”, *Pax Ottomana: Studies in Memoriam Prof. Dr. Nejat Göyünç*, ed. Kemal Çiçek, Ankara: SOTA–Yeni Türkiye Yayınları 2001, pp. 183–203.
- .....: *Girit’in Fethi ve Osmanlı İdaresinin Kurulması (1645–1670)*, İstanbul: Tarih ve Tabiat Vakfı 2004.
- Heyd, Uriel: “Kānūn and Sharī’a in Old Ottoman Criminal Justice”, *Proceedings of the Israel Academy of Sciences and Humanities*, 3/1 (1967), pp. 1–18.

- .....: *Studies in Old Ottoman Criminal Law*, ed. Victor Louis Ménage, Oxford: Oxford University Press 1979.
- Imber, Colin: *Ebu's-su'ud, The Islamic Legal Tradition*, Stanford, CA: Stanford University Press 1997.
- İnalçık, Halil: "İslâm Arazi ve Vergi Sisteminin Teşekkülü ve Osmanlı Devrindeki Şekillerle Mukayesesi", *AÜ İslâm İlimleri Enstitüsü Dergisi*, 1 (1959), 29–46.
- .....: "Osmanlılar'da Raiyyet Rûsûmu", *Belleten*, 22/92 (1959), pp. 575–608.
- .....: "Kânûn", *Encyclopaedia of Islam*, 2<sup>nd</sup> edition, IV, 1978, pp. 559–62.
- .....: "Islamization of Ottoman Laws on Land and Land Tax", *Essays in Ottoman History*, İstanbul: Eren Yayınları 1998, pp. 155–73.
- .....: "State, Land and Peasant", *An Economic and Social History of the Ottoman Empire, 1300–1914*, eds. Halil İnalçık and Donald Quataert, Cambridge: Cambridge University Press 1994, pp. 126–31.
- İnbaşı, Mehmet: *Ukrayna'da Osmanlılar: Kamanîçe Seferi ve Organizasyonu (1672)*, İstanbul: Yeditepe Yayınları 2004.
- Ivanyi, Katharina Anna: "And the Question of Lands is Very Confusing': Birgivi Mehmed Efendi (d. 981/1573) on Land Tenure and Taxation", *Political Thought and Practice in the Ottoman Empire, Halcyon Days in Crete IX*, a symposium held in Rethymno, 9–11 January 2015, ed. Marinos Sariyannis, Rethymno: Crete University Press 2019, pp. 137–47.
- .....: *Virtue, Piety and the Law, A Study of Birgivi Mehmed Efendi's al-Ṭarîqa al-muḥammadiyya*, Leiden, The Netherlands: Brill 2020.
- Jennings, Ronald C.: "Kadı, Court, and Legal Procedure in 17<sup>th</sup> c. Ottoman Kayseri: The Kadı and the Legal System", *Studia Islamica*, 48 (1978), pp. 133–72.
- .....: "Limitations of the Judicial Powers of the Kadı in 17<sup>th</sup> c. Ottoman Kayseri", *Studia Islamica*, 50 (1979), pp. 151–84.
- Johansen, Baber: *Islamic Law on Land Tax and Rent: The Peasants' Loss of Propety Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods*, London; New York: Croom Helm 1988.
- Joseph, Sabrina: "An Analysis of Khayr Al-Din Al-Ramli's Fatawa on Peasant Land Tenure in Seventeenth-Century Palestine", *The Arab Studies Journal*, 6/7 (2/1) (1998–1999), pp. 112–27.
- Joseph, Sabrina: *Islamic Law on Peasant Usufruct in Ottoman Syria*, Leiden: Brill 2012.
- Kafadar, Cemal: "The City that Râlab visited: The Political and Cultural Climate of Istanbul in the 1650s", *The Sultan's Procession the Swedish Embassy to Sultan Mehmed IV in 1657–1658 and the Râlab Paintings*, ed. Karin Ådahl, İstanbul: Publication of Swedish Research Institute in İstanbul 2006, pp. 58–73.
- .....: "Janissaries and Other Rifraff of Ottoman İstanbul: Rebels Without a Cause?", *Identity and Identity Formation in the Ottoman World: A Volume of Essays in Honour of*

- Norman Itzkowitz, eds. Baki Tezcan and Karl K. Barbir, Wisconsin: University of Wisconsin Press 2007, pp. 113–34.
- Kallek, Cengiz & DİA: “Haraç”, *TDV İslâm Ansiklopedisi*, 16, 1997, pp. 71–88, 88–90.
- Kallek, Cengiz: “Fetâvâ-yı Abdurrahîm”, *TDV İslâm Ansiklopedisi*, 12, 1995, p. 437.
- Karagedikli, Gürer: *A Study on Rural Space, Land and Socio-Agrarian Structure in Ottoman Edirne, 1613–1670*, PhD diss., Middle East Technical University, 2017.
- .....: “Erken Modern Osmanlı İmparatorluğu’nda Devlet, Toprak ve Kayıt Pratikleri: 1670–1671 Edirne Tahriri Bize Ne Anlatır?”, *Hacettepe Üniversitesi Türkiyat Araştırmaları*, 31 (2019), pp. 7–28.
- Karagöz, Fatma Gül: *The Evolution of Kânûnnâme Writing in the 16<sup>th</sup> and 17<sup>th</sup> Century-Ottoman Empire: A Comparison of Kânûn-i Osmânî of Bayezid II and Kânûnnâme-i Cedid*, MA Thesis, Bilkent University, 2010.
- Kermeli, Eugenia: “Caught in between Faith and Cash: The Ottoman Land System of Crete, 1645–1670”, *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840 (Halcyon Days in Crete VI)*, a symposium held in Rethymno, 13–15 January 2006, ed. Antonis Anastasopoulos, Crete: Crete University Press 2008, pp. 1–32.
- Khoury, Dina Rizk: “Administrative Practice Between Religious Law (*Shari’a*) and State Law (*Kanun*) On the Eastern Frontiers of the Ottoman Empire”, *Journal of Early Modern History*, 5/4 (2001), pp. 305–30.
- Kolçak, Özgür: *XVII. Yüzyıl Askerî Gelişimi ve Osmanlılar: 1660–64 Osmanlı-Avusturya Savaşları*, PhD diss., Istanbul University, 2012.
- .....: “Yeniçeriler, Ümera Kapıları ve Tımarlı Sipahiler: 1663–1664 Osmanlı-Habsburg Savaşlarında Osmanlı Ordu Terkibi”, *Yeni Bir Askerî Tarih Özlemi: Savaş, Teknoloji ve Deneysel Çalışmalar*, ed. Kahraman Şakul, İstanbul: Tarih Vakfı Yurt Yayınları 2013, pp. 217–51.
- Kołodziejczyk, Dariusz: *The Ottoman Survey Register of Podolia (ca. 1681) Defter-i Mufassal-i Eyalet-i Kamaniçe*, Cambridge: Harvard University Press 1994.
- Kolovos, Elias: “Beyond ‘Classical’ Ottoman Defterology: A Preliminary Assessment of the Tahrir Registers of 1670–71 Concerning Crete and the Aegean Islands”, *The Ottoman Empire, the Balkans, the Greek Lands: Toward a Social and Economic History (Studies in Honor of John C. Alexander)*, eds. Elias Kolovos, Phokion Kotzageorgis, Sophia Laiou and Marinos Sariyannis, İstanbul: Isis Press 2007, pp. 201–35.
- .....: “A Town for the Besiegers: Social Life and Marriage in Ottoman Candia outside Candia (1650–1669)”, *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840 (Halcyon Days in Crete VI)*, a symposium held in Rethymno, 13–15 January 2006, ed. Antonis Anastasopoulos, Crete: Crete University Press 2008, pp. 103–75.
- Köprülü, Mehmet Fuad: *Bizans Müesseselerinin Osmanlı Müesseselerine Tesiri*, İstanbul: Ötüken Neşriyat 1981.

- Kunt, Metin İ.: "17. Yüzyılda Osmanlı Kuzey Politikası Üzerine Bir Yorum", *Boğaziçi Üniversitesi Dergisi*, 4-5 (1976-1977), pp. 111-6.
- .....: *The Köprülü years: 1656-1661*, PhD diss., Princeton University, 1971.
- Marcus, Abraham: *The Middle East on the Eve of Modernity: Aleppo in the Eighteenth Century*, New York: Columbia University Press 1989.
- Mundy, Martha: "Ownership or Office? A Debate in Islamic Hanafite Jurisprudence over the Nature of the Military 'Fief', from the Mamluks to the Ottomans", *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, eds. Alain Potage and Martha Mundy, New York: Cambridge University Press 2004, pp. 142-65.
- .....: "Islamic Law and the Order of State: The Legal Status of the Cultivator", *Syria and Bilad al-Sham under Ottoman Rule, Essays in Honour of Abdul Karim Rafeq*, eds. Peter Sluglett and Stefan Weber, Leiden: Brill 2010, pp. 399-419.
- Mundy, Martha and Richard Saumarez Smith: *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, London and New York: I.B. Tauris 2007.
- Orhonlu, Cengiz: "K̲harād̲j̲", *Encyclopedia of Islam*, 2<sup>nd</sup> edition, 4, 1990, pp. 1053-5.
- Özvar, Erol: *Osmanlı Maliyesinde Malikâne Uygulaması*, İstanbul: Kitapevi 2003.
- Pakalın, Mehmet Zeki: *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü*, vol. 1-3, İstanbul: Milli Eğitim Bakanlığı Yayınları 1983.
- Parveva, Stefka: "Rural Agrarian and Social Structure in the Edirne Region during the Second Half of the Seventeenth Century", *Études balkaniques*, (2000/3), pp. 55-90.
- .....: "Agrarian Land and Harvest in the South-west Peloponnese in the Early Eighteenth Century", *Études balkaniques*, (2003/1), pp. 83-123.
- .....: "Villages, Peasants and Landholdings in the Edirne Region in the Second Half of the 17<sup>th</sup> Century", *Regions, Borders, Societies, Identities in Central and Southeast Europe, 17<sup>th</sup>-21<sup>th</sup> Centuries, Bulgarian-Hungarian History Conference, Sofia, 16-17 May 2012*, eds. Penka Peykovska and Gábor Demeter, Sofia-Budapest: Hungarian Academy of Science 2013, pp. 15-34.
- Pavlović, Miroslav: "Postclassical Defterology: Possibilities of Socio-Economic Research in Contemporary Ottoman Studies", *Istraživanja, Journal of Historical Researches*, 26 (2015), pp. 66-81.
- Peirce, Leslie: *The Imperial Harem: Women and Sovereignty in the Ottoman Empire*, New York: Oxford University Press 1993.
- .....: *Morality Tales: Law and Gender in the Ottoman Court of Aintab*, Berkeley: University of California Press 2003.
- Punar, Bünyamin: *Kanun and Sharia: Ottoman Land Law in Şeyhülislam fatwas from Kanunname of Budin to the Kanunname-i Cedid*, MA Thesis, İstanbul Şehir University, 2005.

- Repp, Richard C.: “Qanun and Shari’a in the Ottoman Context”, *Islamic Law: Social and Historical Contexts*, ed. Aziz Al-Azmeh, London: Routledge 1988, pp. 124–45.
- Rycaut, Paul: *The Present State of the Ottoman Empire*, Westmead: Greek International Publishers 1972.
- Sariyannis, Marinos: “Notes on the Ottoman Poll-Tax Reforms of the Late Seventeenth Century: The Case of Crete”, *Journal of the Economic and Social History of the Orient*, 54 (2011), pp. 39–61.
- .....: “The Kadızâdeli Movement as a Social Phenomenon: The Rise of a ‘Mercantile Ethic?’”, *Political Initiatives ‘From the Bottom Up’ in the Ottoman Empire, Halcyon Days in Crete VII, 9–11 Jan. 2009*, ed. Antonis Anastasopoulos, Rethymno: Crete University Press 2012, pp. 263–89.
- Shaw, Stanford J.: *History of the Ottoman Empire and Modern Turkey, vol. 1: Empire of the Gazis: The Rise and Decline of the Ottoman Empire, 1280–1808*, Cambridge: Cambridge University Press 1976.
- Suceska, Avdo: “Malikâne (Osmanlı İmparatorluğunda Mîrî Toprakların Yaşam Boyu Tasarruf Hakkı)”, trans. M. Özyüksel, *İstanbul Üniversitesi İktisat Fakültesi Mecmuası*, 41/1-4 (1984), pp. 273–82.
- Şakul, Kahraman: *II. Viyana Kuşatması, Yedi Başlı Ejderin Fendi*, İstanbul: Timaş Yayınları 2021.
- .....: *Kamanice Kuşatması 1672*, İstanbul: Timaş Yayınları 2021.
- .....: *Uyvar Kuşatması 1663*, İstanbul: Timaş Yayınları 2021.
- .....: *Çehrin Kuşatması 1678*, İstanbul: Timaş Yayınları 2022.
- Salzmann, Ariel: “An Ancien Régime Revisited: ‘Privatization’ and Political Economy in the Eighteenth-Century Ottoman Empire”, *Politics & Society*, 21/4 (1993), pp. 393–423.
- Taylor, Malissa: “Keeping Usufruct in the Family: Popular and Juridical Interpretations of Ottoman Land Tenure Law in Damascus”, *Bulletin D’études Orientales*, 61 (2012), pp. 429–43.
- .....: “Forcing the Wealthy to Pay Their Fair Share? The Politics of Rural Taxes in 17<sup>th</sup>-Century Ottoman Damascus”, *Journal of the Economic and Social History of the Orient*, 62/1 (2019), pp. 35–66.
- Tezcan, Baki: *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World*, Cambridge: Cambridge University Press 2010.
- Tuğ, Başak: *Politics of Honor in Ottoman Anatolia: Sexual Violence and Socio-legal Surveillance in the Eighteenth Century*, Leiden; Boston: Brill 2017.
- Tuşalp, Atıyas Ekin: “The ‘Sunna-Minded’ Trend”, *A History of Ottoman Political Thought up to the Early Nineteenth Century*, ed. Marinos Sariyannis, Brill: Leiden 2019, pp. 233–78.



- Uzunçarşılı, İsmail Hakkı: *Osmanlı Tarihi*, vol. III, 8<sup>th</sup> ed., Ankara: Türk Tarih Kurumu Yayınları 2011.
- Veinstein, Gilles: "On the Çiftlik Debate", *Landholding and Commercial Agriculture in the Middle East*, eds. Çağlar Keyder and Faruk Tabak, Albany: State University of New York Press 1991, pp. 35–53.
- .....: "Le législateur Ottoman face à l'insularité, L'enseignement des Kânûnnâme", *Insularités ottomanes*, eds. Nicolas Vatin and Gilles Veinstein, Istanbul: Institut français d'études anatoliennes 2004, pp. 91–110.
- .....: "Les règlements fiscaux ottomans de Crète", *The Eastern Mediterranean under Ottoman Rule: Crete, 1645–1840 (Halcyon Days in Crete VI)*, a symposium held in Rethymno, 13–15 January 2006, ed. Antonis Anastasopoulos, Rethymno: Crete University Press 2008), pp. 3–16.
- Vidras, Georgios, Christos Kyriakopoulos and Elias Kolovos: "The Rural Economy of Ottoman Crete (1650-1670): A Spatial Approach", *Études balkaniques*, 55/4 (2019), pp. 801–30.
- Yayla, Mustafa: "Fetâvâ-yı Minkârîzâde", *TDV İslâm Ansiklopedisi*, 12, 1995, pp. 444–5.
- Yılmaz, Gülay: *The Economic and Social Roles of Janissaries in a Seventeenth-century Ottoman City: The Case of Istanbul*, PhD diss., McGill University, 2011.
- Yoldaşlar, Özgün Deniz: *Minkârîzâde Yahyâ and the Ottoman Scholarly Bureaucracy in the Seventeenth Century*, PhD diss., Boğaziçi University, 2021.
- Ze'evi, Dror: *Producing Desire: Changing Sexual Discourse in the Ottoman Middle East, 1500–1900*, Berkeley: University of California Press 2006.