

State, Faith, Nation, and the Ottoman Empire

This is a study in political history, and as such it is at root about the relationship between those with power and the populations under their formal control. The past several centuries have fascinated historians across many fields because in political terms “modernity” has meant the rapid increase in the scope and intensity of state authority, which in turn has placed state-society relations everywhere under tremendous pressure. This book covers the period from the eve of modernization in the Ottoman empire until the early twenty-first century in post-Ottoman countries, and the central question driving the analysis is that of how the state could legitimate itself to its subject population as its power grew. It argues that Ottoman rulers succeeded in maintaining a workable state-society dynamic as long as regimes took care to retain in practice the ruling dynasty’s identification with religion. Leaving aside the powerful feeling of communal solidarity that shared belief can create (acceptance into which would tend to benefit any temporal ruler), Islam’s strong moral content and attachment to the principle of justice gave promise of safeguards against arbitrary use of the state’s growing power. This appealed to Muslims but also benefited non-Muslims, who remained loyal, or at least quiescent, as Ottoman citizens until the empire was broken apart. Nationalism held little appeal for Ottoman populations and in itself posed no real threat to Istanbul’s rule: there never was any successful, or even serious, domestic nationalist uprising against Ottoman authority. Nationalism was fostered consciously by post-Ottoman regimes, which needed effective means under their exclusive control to build legitimacy for the existence of new states. Regimes promoted forms of nationalism that were (and still are) fundamentally state-serving,

offering few benefits – and fewer safeguards against the arbitrariness of state power – to their subject populations. The weaknesses and failures of such nationalisms in fostering stable state-society relations have been exposed repeatedly, from the first post-Ottoman decades to recent years’ experiences of violent instability in the Balkans, the rise of religion in public life across the post-Ottoman landscape, and the “Arab Spring” that began in 2011.

In order to make the rationale for such an argument about the trajectory of politics clear, this chapter discusses the path by which the Ottoman empire reached the “starting point” of the modern period. It offers a brief sketch of imperial development to the eighteenth century and of the relationship between state and population in the premodern period. In contrast to a common assumption, the empire and the ruling dynasty did not survive for some six centuries simply because of the sultanate’s grandeur and absolute power. By any modern standard, Ottoman rulers were rather weak, having no well-developed machinery of state capable of coercing recalcitrant subjects. The rulers’ limited responsibilities made such power unnecessary: the dynasty organized defense against foreign foes, the preservation of peace domestically, and the collection of revenue for these tasks and for the support of the ruling elite in appropriate comfort. No part of the Ottoman population suffered the full weight of serving any one of these sultanic interests without gaining enough from performance of the other two imperial duties to render active coercion unnecessary.

Ottoman dynastic authority survived also because the limited imperial administration suited the natural features of the sultan’s domains very well. The strength and wealth of the empire resulted from its remarkable size: more than thirty countries of today contain formerly Ottoman land, from Hungary to Ukraine and the Caucasus in the north, and from Algeria to Yemen and Qatar in the south. In comparison to much of western and central Europe, however, most Ottoman land was neither densely populated nor rich in natural assets, including agricultural potential and basic minerals. This helps to explain the lack of significant cities across the empire that could possibly rival Istanbul, the capital situated in a relatively fertile area at the confluence of vital land and sea communication routes. Only Cairo, located in the exceptionally productive and densely populated Nile Valley and close to the Red Sea, could rival Istanbul. By no coincidence, Istanbul monitored Egypt more carefully than any other province, and with good reason, as it was a governor of Egypt, Mehmed (Muhammad) Ali Pasha, who in the 1830s mounted the

greatest domestic threat ever posed to Ottoman dynastic authority. Other than Cairo, however, Istanbul faced no internal centers capable of challenging its rule, making it unnecessary for the imperial metropolis to be mobilized permanently to police its vast provincial expanse.

Istanbul's method of administration thus could rely safely upon intermediaries, to whom the sultanate devolved revocable authority. Devolution was eased in that the sultanate did not have to negotiate political matters with a hereditary landed aristocracy according to the various traditions in which the essentially feudal system of premodern politics was entangled in Christian Europe. It worked instead through a multitude of intermediary figures and groups (such as guilds and religious institutions), each of whom served as a fulcrum upon which the power of the sultanate could leverage the mass of land and people to fulfill the premodern state's limited tasks. The relative scarcity of good overland and even maritime transportation routes made commerce controllable, turning customs and excise into major sources of imperial revenue. By contrast, devolved authority and the sheer extent of the not tremendously productive provinces meant that Ottoman methods of taxation and military recruitment throughout the premodern period stressed extension – making sure that every area contributed something to the center's requirements – rather than intensity of exploitation. It is indeed possible to cast the theme of change in state-society relations during the modern period as the story of how the Ottoman state tried to shift from extensive to intensive exploitation, of its failures in the 1792–1839 period and successes after 1839, and of the weaknesses in successor regimes that took on the monumental challenge of building anew states capable of exploiting resource potential sufficiently to perform the core responsibilities of government.

Prior to the stresses of modernity, the system devised by Ottoman rulers was eminently sustainable, as long as the imperial center monitored its operation to soothe stresses whenever they appeared, and indeed the system promoted the stability of imperial administration that characterized the empire from its founding until the eighteenth century. One element that requires further note, however, as a result of its critical role in keeping the military-administrative framework functioning and in maintaining a healthy state-society relationship, is Islam, which provided the backbone for the Ottoman system of justice.

From the early days of the empire (arising c. 1301) the Ottoman dynasty and ruling elite maintained a close relationship between Islam and the state. This assertion does not suggest that Ottoman rule

was unimaginative, inflexible, or relentlessly oppressive toward its non-Muslim population: Ottoman rule was highly practical, and had it relied upon systemic oppression, it would not have survived for six centuries. The assertion that the sultanic system developed in tight association with Islam suggests rather that for an imperial center of greater latent than mobilized strength, the religion served as a vital “amplifier” of the center’s power. It gave the imperial regime an ideology that increased its legitimacy and encouraged submission to its moral authority. In a real sense, Islam gave the empire a strong state tradition in lands whose geography and recent past militated against tight control by a distant ruler; the Central Asian ancestral homeland of the Turks certainly had no strong state tradition, producing no noteworthy or durable institutions of administration and no notable dynasties except where, as in the case of the Mongols, ruling tribal elites adopted the religion and traditions of the lands they conquered.¹ Islam, through its emphasis on law, assured the population that a stable system of justice would prevent extremes of anarchy and oppression. With the aid of an effective and “objective” (might does not always make right) system of justice, the imperial center held the allegiance of not only the Muslim population that was to provide most of its military strength and a growing proportion of its tax revenues, but also non-Muslims who looked to the ruler’s authority as the ultimate guarantor of justice, including protection against oppression by local wielders of power assigned by the sultan. The dynasty’s identification with Islam also strengthened the loyalty of the local intermediary bodies (Muslim and non-Muslim learned hierarchies, guilds, etc.) and representatives to whom that generally loosely supervised authority was delegated (such as the holders of *timar* [see later discussion]), with those who executed the modest administration of the state expressing their sense of duty as service to the religion and the dynasty that served it (*din ü devlet*).

Ottoman principles and practices of government developed relatively rapidly, with a mere century and a half separating Osman’s initial unsettled warrior band from Sultan Mehmed II’s conquest of Constantinople (1453), the geographic key to the establishment of a durable empire. Although much remains unknown about the origins of Ottoman authority, it seems to have conformed to the usual developmental pattern of states, with power over communal affairs accruing to those proven effective in

¹ Byzantium retained a mere shadow of its power and reach in the fourteenth century, and Anatolia and the Balkans had been under no stable “imperial” authority for even longer.

military organization and leadership. Until the nuclear age, when war became too expensive and catastrophic for most states to wage, it was practically impossible to separate political authority from the state's military function, and in the Ottoman case, the founder of the dynasty, Osman, certainly appeared as a war leader. While his position may have originated in leading a tribe during conflict with Byzantium, the growth of his following before or after his initial recorded victory at Baphaeon (c. 1301) would have made the fiction of blood ties so important to tribal leadership impossible to maintain. Islam provided the supratribal legitimation for his leadership position: by all accounts, Osman's struggle against the Byzantines was *gaza*, or religiously legitimated raiding into the infidel Abode of War. That the religion in the early Islamic era was an effective tool in curbing Arab tribal practices and subsuming clan identity to membership in the community of believers presumably boosted its attraction in chaotic post-Selcuk Anatolia. Tribal custom would not be long accepted as law by followers not members of the tribe, but shari'a, no matter how rough-and-ready, was a recognizably authoritative and stable source of justice in adjudicating disputes. Islam thus aided the early growth of the leader's powers to command, expanding the martial function of Osman's war band to encompass effective mechanisms for keeping the peace, dispensing justice, and raising revenue. Osman and his descendants, and their followers, not only accepted Islam in name but took it to heart, and the state that they built conformed to Islamic principles.

Pragmatism and religion are not inherently irreconcilable, and the early Ottomans were quite pragmatic in constructing this limited state, drawing upon talent wherever found in the multiethnic (predominantly Christian) population and accepting local custom as the norm in administering various provinces. Such flexibility in itself did not contravene Islam, but over time Islamic identity did set some limit to pragmatism, in that the Ottoman army, a critical element of the state, may have included some Christians except for much of the nineteenth century but was essentially a Muslim institution. This institution shaped the state's categorization of society and its system of provincial administration into the eighteenth century. The durable term for the Ottoman elite was "military" (*'askari*); in return for serving the war leader's primary function, members of the military gained relief from taxation. Those who served the developing state's other main function, keeping the peace (notably men of religion), were accorded similar *'askari*, tax-exempt status. The prebendal cavalryman (*sipahi*) merged both functions, gaining temporary rights to revenues from specified lands (*timar*) to use to equip himself for

campaign but also to assume routine local administration in much of the empire; if the sipahi failed to muster for campaign or shirked tasks such as providing local security around his timar, he forfeited the right to the specified revenues. The ‘askari class, and the timar holders in particular, were overwhelmingly Muslim from the sixteenth century, when the majority of the empire’s population was no longer Christian. At no point in Ottoman history does it seem that the military was equally ready to attack Muslim and non-Muslim enemies. The janissaries – a salaried standing force originally of the sultan’s slaves – were unenthusiastic about campaigning against Iran in the east, at least in part because of reluctance to make war upon fellow Muslims, even the schismatic Shi‘a. Religion regularly justified the targets of warfare, be they the unbelievers dwelling in the Abode of War or schismatics who promoted *fitna* (dissension or chaos) in the Abode of Islam.² The warrior dynasty perforce regularly maintained truces with ideological enemies, but its other duties, keeping the peace and promoting justice, were perennial and therefore ultimately exerted paramount influence upon the nature of the state. It was in the area of law that the empire most clearly demonstrated its nature as an Islamic state.

All students of the premodern empire become familiar with the “circle of equity/justice” that those giving advice to the Ottoman ruling class regularly cited: the world is a vineyard whose walls are the state; the state’s regulator is the shari‘a; the shari‘a cannot take effect without the presence of land (the Abode of Islam, defined as territory under a Muslim ruler who can ensure freedom for shari‘a); land cannot be seized without soldiers; soldiers cannot be recruited without property; property is accumulated by the subjects; the subjects pledge obedience to the world ruler whenever justice reigns; justice is the source of salvation of the world.³ The trope of the circle’s corruption nourished the now-discredited notion that the empire started to decline after the death of Süleyman I, the Magnificent, in 1566, but it is important not to dismiss the circle in the rush to discard the “long decline” thesis. It reflected an ideal taken seriously by all strata of Ottoman society and was constituted of the core concerns of any state: the military, the courts, and taxation, all regulated by the principle of justice. “Justice” has an obvious meaning

² John Guilmartin, “Ideology and Conflict: The Wars of the Ottoman Empire, 1453–1606,” *Journal of Interdisciplinary History* 18 (1988), 721–47.

³ Norman Itzkowitz, *Ottoman Empire and Islamic Tradition* (Chicago: University of Chicago Press, 1972), 88. On the tendency to cite the circle, see Bernard Lewis, “Ottoman Observers of Ottoman Decline,” *Islamic Studies* 1 (1962), 71–87.

but also encompasses in affairs of state the broader concept of “good governance.”⁴ For the Ottoman world, shari‘a was the source of law and the guarantor of justice, the force binding subjects to their ruler.

As a term that arouses abhorrence among so many in the West today, “shari‘a” requires brief explanation. Shari‘a, a word connoting “way,” represents the basic precept of acting “in the path of God,” or behaving in a way attuned to God’s instructions for individuals and for the community of believers. It is not a law code or set of statutes: it is impossible to get a copy of “the shari‘a” as it would be to find the text of the Code Napoléon, for example. It is rather a system of interpretation of sources (the core text of the Qur’an but also the *hadith*, the accounts of the actions of Muhammad and the members of the early Muslim community) to guide believers in living a “good” life and avoiding the wrong in everyday situations. The bulk of shari‘a interpretation has addressed matters of faith and the permissibility of actions, not problems pertaining to social regulation through fields such as criminal law. Where it does address wrongs done to fellow humans rather than poor practice of faith, shari‘a’s main intent is to restore peace between Muslims and heal the moral order rather than to punish (a matter to be decided by God), except under very limited circumstances. As befits tort, crime is highly personal, with factors such as the moral and social standing of the parties involved and the intent of the perpetrator of wrong influencing the determination of guilt and the means chosen to make amends.⁵ The Qur’an contains firm rules, to be sure, and the texts are not open to complete freedom of interpretation. There are nevertheless broadly accepted modes of varying interpretation, represented as “schools” (sg. *madhhab*) of Islamic jurisprudence.

Of the four Sunni schools, the Hanafi is the most inclined to pragmatic solutions to problems imperiling community peace. Hanafism (after Abu Hanifa [d. 767]) developed in southern Iraq, former borderland between the Byzantine and Sassanid (Persian) empires and the site of several major garrison-encampments populated by Muslim tribesmen from disparate regions of the Arabian Peninsula. The area also saw the most rapid rise

⁴ Bernard Lewis, “Freedom and Justice in the Modern Middle East,” *Foreign Affairs* 84/3 (May–June 2005), 38, citing Rifa‘a Rafi‘ al-Tahtawi’s explanation of (post)revolutionary France’s “liberté” as the equivalent of Muslims’ “justice.”

⁵ Lawrence Rosen, *The Anthropology of Justice: Law as Culture in Islamic Society* (Cambridge: Cambridge University Press, 1989); Rudolf Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2005).

in numbers of non-Arab converts to Islam. Its variegated population encouraged Hanafism's flexibility of approach to interpretation, including the greatest acceptance of popular custom (and not the custom of a specific place and time, as the Hijaz-centered Maliki madhhab did) as legitimate.⁶ It is the school most given to interpreting on the basis of logic, "the common good," and "public interest." Because Hanafi interpretation is in many respects the least constricting of the schools, it was favored by numerous premodern regimes, including those with authority over extensive territories and variegated populations, from the Abbasid caliphate of Baghdad to Mughal India to the Ottoman empire.

Shari'a in the Ottoman empire accepted custom into law, but it also accommodated sultanic decree (*kanun*). It is important to recognize that despite the large volume of royal directives, *kanun* supplemented rather than overshadowed shari'a. Since shari'a guides Muslims to act in accordance with God's wishes, matters of faith and proper comportment (e.g., ritual propriety, or the permissibility of wearing certain clothing or listening to music) far outweigh those of relations between believers. Guidance on interpersonal affairs, especially serious (*hadd*) crime, is also circumscribed by strong provisions, including testimony by multiple eyewitnesses of good character, admissibility of hard rather than circumstantial evidence, and consideration of intent; these provisions were meant to prevent miscarriages of justice that could lead to *fitna* among Muslims. Since shari'a treats crime as essentially personal, moreover, no judge has a role until someone lodges a complaint or accusation. For a state that took seriously its responsibility to protect the society under its control, shari'a's lack of detailed prescriptions for management of public affairs made supplementary regulation necessary. Shari'a accepted this place for mundane authority in legal regulation under such terms as *siyasa*, the ruler's right to chastise his servants charged with imperial administration, and *ta'zir*, discretionary punishment in cases not punishable according to specified requirements of shari'a. Ottoman imperial *kanun* developed in these areas to regulate and manage the empire's population more effectively.⁷ Only in rare instances did *kanun* contradict an important shari'i principle, as in the decree of Mehmed II that sultans could kill their brothers, or in application of the *devşirme*, by which children of

⁶ Gideon Libson, "On the Development of Custom as a Source of Law in Islamic Law," *ILS* 4 (1997), 131–55.

⁷ Muhammad Masud, Rudolph Peters, and David Powers, "Qadis and Their Courts: An Historical Survey," in *Dispensing Justice in Islam: Qadis and Their Judgments*, ed. Muhammad Masud et al. (Leiden: Brill, 2006), 12; Peters, *Crime and Punishment*, ch. 1.

Christian peasants could be made the sultan's slaves in contravention of the principle that non-Muslims who paid a head tax (*jizya*) are protected against such penalties. These contradictions discomfited the Ottoman ruling class, but they found justification in *istihsan* and *istislah* (seeking the greater good and, roughly, "public interest"), principles accepted in Hanafi jurisprudence.⁸ As a body, therefore, Ottoman law was built upon an Islamic foundation and, in line with this basis, aimed at ensuring that justice was seen to prevail in both state and society.

Ottoman society had another obvious need for kanun law: until the addition to the empire of the Arab provinces in the sixteenth century, the population was majority Christian, and even thereafter it retained a large non-Muslim minority. Shari'a was Islamic, and under shari'a it was wrong to force people who refused to recognize the truth of the religion to apply its principles, except in issues affecting Muslims. Had law remained limited only to the shari'a, Ottoman rule probably would have been short-lived in the Balkans and even Anatolia. Greater flexibility existed in punishing by *siyasa* or *ta'zir*, however, the areas encompassing much of kanun, thereby creating a legal framework through which an otherwise ill-served part of the population could attain justice. The Ottoman supplementation of shari'a with kanun enabled the retention of non-Muslim acceptance of subservience to the Islamic state.

This contradicts the notion that non-Muslims accepted Ottoman overlordship because they were able to escape much of its control, as a result of the sultans' having granted autonomy to non-Muslim communities (*millas*/Ott. *millet*s). In the premodern period, when the state was concerned with matters of war, peace, and taxation, the non-Muslims had no unusual autonomy or exemption from state authority. After the fifteenth century, at least, they were in theory excluded (not exempted) from military service, and they paid the head tax that contributed crucial revenue to the central government's war chest. It was in collection of the head tax or other requirements such as the *devşirme* that could provoke unrest among non-Muslims where the state saw an interest in actively supporting the status of non-Muslim men of religion. This was not the granting of autonomy but rather the opposite, since support went with assignation of responsibility for ensuring acquiescence to the state's demands. In legal affairs the lack of autonomy was equally apparent. There was only one law of the land, and it was the Ottoman: kanun and shari'a, which, in Hanafi practice, made significant accommodation for custom

⁸ Victor Ménage, "Some Notes on the 'Devşirme,'" *BSOAS* 29 (1966), 70–1.

or established practice (*'adat*, *'urf*). Non-Muslim “courts” addressed only issues of comportment according to infidels’ “misguided” notions of God’s wishes that also made up the bulk of shari‘a but not *kanun*: ritual and personal affairs, including marriage, divorce, and inheritance. The state simply did not care about these, as long as no Muslim was involved and no threat to communal peace arose. This freedom from interference in religious matters eased non-Muslim acceptance of Ottoman authority, but *milla* courts had no enforcement power or legal standing, explaining the lack of records left by such bodies.⁹ Any non-Muslim dissatisfied with the opinion of the *milla* court was free to take the matter to the Ottoman judge to get another, and legally enforceable, decision, as many did. They could even appeal directly to the sultan in serious cases; for non-Muslims as well, “the religion and the dynasty” were the ultimate guardians of the population’s spiritual and material well-being.

That some non-Muslims turned voluntarily to the Ottoman courts hints at the last important point to note regarding the nature of the state and its religiously shaped system of law: the premium placed upon achieving just resolutions to affairs unsettling local communities, rather than upon retributive punishment of lawbreakers. In comparison to a legal system such as premodern England’s, with its notorious propensity to mete out the death penalty for a wide variety of seemingly minor crimes as a means of deterring offenders, the Ottoman legal system placed heavier emphasis upon protecting local communal peace. The premodern empire saw state-committed bloodshed, including executions of individuals and the attempted extermination of groups, but this tended to occur at times of high state stress and affected primarily the ruling class or, in the case of pro-Safavid *kızılbaş*, heretical “traitors” to the dynasty, not the general population. Sultans took seriously their responsibility for dispensing justice (*'adala*), and the main target of their justice rescripts (Ott. *adaletname*) was the state’s officials, warning them against abuse of their authority over the taxpaying population.¹⁰ The courts, by contrast, often sought reconciliation and arbitration of disputes; penalties levied when reconciliation was impossible or inappropriate inclined toward payment of restitution or compensation to the aggrieved; and punishment (fines,

⁹ Jewish responsa, which bear a closer resemblance to Islamic fatwas than to court records, are the exception.

¹⁰ Halil İnalcık, “State, Sovereignty and Law during the Reign of Süleyman,” in *Süleyman the Second and His Time*, ed. Halil İnalcık and Cemal Kafadar (Istanbul: ISIS Press, 1993), 59–61; Boğaç Ergene, “On Ottoman Justice: Interpretations in Conflict (1600–1800),” *ILS* 8 (2001), 52–87.

imprisonment, or corporal injury) tended to be moderate to encourage reform or rehabilitation of the offender.¹¹ To illustrate this, consider a case involving a former provincial officer in the mid-eighteenth century.

One Ömer Bey of Ioannina (northwestern Greece) served as military commander of the district in the 1750s, when he was imprisoned in the citadel of Durrës (Albania) for reckless carriage of weapons and the presumably accidental but nevertheless wrongful killing of a Christian; having somehow secured release from prison, he then started to meddle in the management of timar lands. Having acted twice against the sultan's kanun, he lost his position and was imprisoned again in 1758, this time in the fortress of Limnos, so that he could repent and rehabilitate himself (*islah al-nafs*, implying moral improvement). He was released after a few months, on condition that he not engage again in such undesirable acts. Having lost his position, however, he became something of a confirmed rogue, perhaps out of necessity. He was imprisoned on another five occasions between 1760 and 1768, each time upon the petition of Muslim and non-Muslim subjects of good standing complaining of different illegal acts committed by Ömer and various partners. Each time he was to be imprisoned until he had reformed himself, a process that apparently always took months rather than years. Yet, in line with shar'ī thinking, the state never deemed him beyond salvation and therefore neither locked him away permanently (or even for progressively lengthier periods as a recidivist) nor executed him.¹² Ömer's history indicates a relatively responsive, efficient, morally grounded, and humane legal system: an effective source of justice.

This chapter's discussion of themes as large as the development of the Ottoman state and of its close connection to Islam necessarily relies upon sweeping statements that belie variations, but it reflects the general characteristics of the topic. The stability of the link between Ottoman rule and Islam in the premodern period seems incontrovertible: the ethos and ultimate focus of public life, accepted by both rulers and ruled, was service to *din ü devlet* (the religion and the dynasty/state). This does not imply that religion supplied all the answers to all the questions posed by decision makers: the marriage between state and religion presented no bar to the Ottomans' noted practicality. Islam did place limits upon mundane authority, in that no sultan could claim to be truly an absolute

¹¹ See, for example, Engin Akarlı, "Law in the Marketplace: Istanbul, 1730–1840," in Masud, Peters, and Powers (eds.), *Dispensing Justice*, 247–51.

¹² BOA, Cev.Dah 3181, 11 June 1768.

ruler answerable to none, and acceptance of God's supremacy meant that no sultan or grand vizier could openly flout God's law or otherwise stray from service to God's wishes without running a rapidly escalating risk of popular disquiet. In return, however, Islam gave the dynasty a powerful ideological legitimacy, in effect providing a readily understood answer to the question "What is the state's purpose; what does it stand for?": protection and expansion of the Abode of Islam. This answer resonated particularly with the majority (from the sixteenth century) of the population, who also found in Islam the answer to the more personal question of "Why am I here?" and was at least acceptable to the significant minority who found their answer in other monotheistic faiths that had similar ethical principles. The stability of this system, however, would be tested from the late eighteenth century, when, under pressure from Christian European foes, the Ottoman state faced the need to strengthen itself at a pace more rapid than any seen since the early stages of building a state out of chaos in the fourteenth and early fifteenth centuries.