



The German Religious Properties in Jerusalem as Revealed in Ottoman Government Documents

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In Jerusalem, the numerous churches and monasteries belong to a multitude of denominations, reflecting the diversity of the Christian communities around the world. The European Christian congregations, among them the German Lutherans and German Catholics, are among the groups whose origins go back to the 19th century. Information gleaned from Ottoman government documents, notably the Islamic Court records and the church affairs registers offer some insight into the history of German

religious properties in the Holy City.¹

Relations between the Ottoman government and the long-standing Christian communities in Jerusalem continued in their traditional form into the mid-19th century, only to be altered in the course of the modernizing civil reforms of the late 19th century known as the Tanzimat reforms. As late as 1841, the governor of Jerusalem issued a *firman* (decree) requiring churches belonging to the Greek Orthodox, Roman Catholics, and Armenian denominations to register with the government. Protestants as a fourth community were not, as yet, recognized. The *firman* also forbade a person from changing his or her denomination. It also specified the type of garment that the Catholic monks had to wear to distinguish themselves from the Greek Orthodox monks.²

In the 18th century, and especially in the 19th century, the sale of land in Jerusalem to non-Muslims sharply increased. The Islamic Court registers for those two centuries hold numerous cases of land sale. The sale of property to non-Ottoman citizens was restricted until the Tanzimat reforms; however, even before this time, land could be sold to foreigners through an Ottoman citizen serving as a proxy.³

¹ These are the registers of the Islamic Law Court in Jerusalem, consisting of 565 volumes covering the Ottoman period starting in 1529. They are written in Arabic except for 25 volumes in Ottoman Turkish. In the Ottoman archives one can find the Church Defters (Kilise Defterleri) that contain the permits granted to the Christian institutions. The first seven defters in the series deal with Bilad al-Sham and Iraq, excluding Egypt. The documents cover the period between 1869 and 1922. The last three defters are devoted to the Church of the Holy Sepulchre in Jerusalem from 1553 to 1913, and are known as the defters of the Holy Sepulchre. Selected court documents are published in Arabic translation in 'Abd al-Rahim Abu Husayn and Salih Sa'dawi eds., *al-Kana'is al-'Arabyiah fi al-Sijill al-Kanasi al-'Uthmani 1829-1922* (Amman, 1998).

² Sijill 325:26.

³ Sijill 367:139.

One of the Islamic Court registers record the reaction of Jerusalem's governor in 1842, Muhammad Tabara, to the increase in land sales. He sent a *firman* to the Qadi (judge), Qa'immaqam and Naqib al-Ashraf (head of the Prophet's family) of Jerusalem, and other notables, in which he reminded them that most of the houses and shops in Jerusalem, whether pious endowments or private property, belonged to the notables and that the inhabitants of Jerusalem, Muslim and non-Muslim alike lived in reasonably priced rented homes. The *firman* proclaimed that no property should be leased or sold within the city without the court's approval. However, when wealthy foreigners began arriving in Jerusalem and purchased or rented land, the landlords would evict the poorer locals from their residences in order to lease the properties to foreigners at a higher rate. This trend had a detrimental impact on the poor who were now often left with no other housing option. After looking into the situation of each property, the court would decide whether to allow it to be leased or sold.⁴

Apparently, the *firman* had no practical effect. The major landowners were able to by-pass the ruling easily enough through legal loopholes. The rent or income of much of the real estate in Jerusalem was inalienably and indefinitely endowed to the support of charitable causes (known in Arabic as waqf, plural awqaf). The charitable beneficiaries of a waqf endowment could be a public institution, such as a mosque, school, hospice, or the like, which needed such income to survive in the absence of government funding from general tax revenue at the time. Waqf endowments could also be private, set up by

⁴ Sijill 326:14.

an individual as a trust fund for his heirs.

The sale of such endowed waqf property would normally be forbidden. However, its sale could be arranged by having the supervisor of the endowment declare in court that the endowment was becoming derelict and that the supervisor did not have the funds to renovate the property, thereby enabling it to generate income. Instead, he would request its "substitution" by selling the property for cash in order to buy a different piece of revenue-generating property. Based on this request, the judge would send a committee to examine the property, composed of three employees of the court and the chief architect and a number of experts. After thoroughly examining the property, they would inform the judge about the condition of the endowed property in question. If there was a buyer, the committee would state whether he was offering more than a certain price and whether the sale at that price would benefit the endowment. In all the documents examined connected with such "substitutions," the committee always agreed with the supervisor of the endowment. Based on the testimony of the committee and the legal opinions of the Hanafī legal tradition, the judge would authorize the substitution (the term "sale" was never used). It is clear that the endowment's supervisor and the buyer would have agreed on a price ahead of time.

The beneficiary of the endowment would then no longer have any claim on the exchanged property, except for an annual hīkr tax of 10/1000 (one percent) of the value of the land. The amount of hīkr assessed remained fixed, and due to inflation would quickly be reduced to a purely nominal sum. Some hīkr payments are only one US dollar per year.

The Church of the Redeemer

The Lutheran Church of the Redeemer was the first religious property to come into the possession of the Germans, as part of the Dabbaghah (Muristan) Neighborhood of the Old City. In 1837, the Greek Orthodox Patriarchate bought two thirds of the Dabbaghah from the al-'Alami family and they built the St. John Hospice and the Eftimios Market.⁵ In 1869, the German Crown Prince Fredrick Wilhelm visited Jerusalem, at which point the Ottoman Sultan 'Abd al-'Aziz bestowed him the eastern third of the Dabbaghah area. On January 20, 1870, the property passed into the ownership of the King of Prussia as a gift, by order of a *firman* issued by the Sultan.⁶

As with most legal documents dealing with property, the size of the donated property is listed. In this case, the property spanned 5.5 dunams. Its boundary to the east was the Vegetable Market; to the north, the street between the Vegetable Market and the Church of the Holy Sepulchre; to the west, the new Prince Wilhelm Street; and to the south, the street of the Bazaar (David Street).

The construction of the Lutheran complex took place in two stages. The first stage was initiated in 1893. Following its completion in 1898, it was dedicated in the presence of the German Kaiser. The relevant Ottoman *firman* records that in this first stage the construction was undertaken in the name of the Evangelical Society in a plot of land measuring 16.5 x 11.25 x 10 m. The building consisted of six rooms, a courtyard, a

⁵ Shahadah Khuri, *Khalasat Tarikh Kanisat Urushalim al-Urthudhuksiyah*. Jerusalem, 1925, p. 191.

⁶ Sijill 358:60.

bathroom, 26 windows and 20 doors leading to interior rooms.⁷ The building permit for the second stage was issued in June 1914 for construction on a plot of land measuring 27 x 7.25 x 17 m. This building would consist of 9 rooms, 3 courtyards, a staircase, 6 places for small gardens, 2 bathrooms, along with 59 windows, and 45 doors leading to interior rooms.⁸ The *firman* allowed imported building materials to be exempted from duty. The church was required to pay a yearly 10/1000 of the value of the property as a *hikr* land tax to the Islamic endowments.

Dormition Abbey

In November 1898, the Ottoman Islamic Court register records the German Deputy Consul's purchase of a piece of land near the Tomb of David, south of the Old City, with an area of 2137 m². The boundary of the property to the south was the new street, three meters wide, which divided the purchased property and the Tomb of David. To the east, the border consisted of a previously private street that now was public. To the north, the property bordered a public street where the former American cemetery was located, and to the west, the border consisted of another public street that ended at the cemetery. The property was originally endowed to Shaykh 'Abd al-Wahhab al-Da'udiya. The property's sale price reached 3000 gold French liras, which was exceptionally high for the times.⁹ The Islamic Court register is filled with documents related to the lengthy legal process of part of that plots sale. Several individuals owned different parts of the plot.¹⁰

⁷ Qism lhya' al-Turath al-Islami, 23/10/3 - 13/1321.

⁸ Abu Husayn and Sa'dawi, *al-Kana'is al-'Arabiyah*, 105.

⁹ Sijill 391:90.

¹⁰ Sijill 391:87-90.

In March 1901, the building permit was issued at the request of the German ambassador in Istanbul. The permit allowed for the construction of the Janabah Church with the building's dimensions measuring 60 x 60 x 38 m, and the height of the bell tower, 47 m. The dimensions of a guest house for visitors and monks would measure 100 x 93 x 12 m, with the condition that the boundary between those buildings and the Tomb of David would be a road three meters wide and 55 m long.¹¹

Augusta Victoria

This building, known in Arabic as al-Matla', was built in 1905. The purchased land on which it was built was formerly a part of the al-Hakkari endowment, set up by the Ayyubid ruler Salah al-Din for the Nabi Musa shrine near Jericho after his re-conquest of Jerusalem from the Crusaders in 1187. Its annual *hikr* land tax was 27 Palestinian pounds, divided among the two endowments. Two documents issued by the Awqaf Department in 1908 delimited the houses of the complex, showing the Awqaf as the endower and the recipient of the *hikr*.¹²

After 1948, when the property came under the control of the Lutheran World Federation (LWF), the *hikr* land tax was still being assessed for the Charitable Soup Kitchen (Tekkiye) of Hasseki Sultan in the Old City. The LWF paid the *hikr* in-kind and in cash. Between 1948 and 1950, its in-kind payments included 3 tons of wheat, 2 tons of rice, 5 tons of beans, and 1.5 tons of cracked wheat. As a goodwill gesture, the federation agreed

¹¹ Abu Husayn and Sa'dawi, *al-Kana'is al-'Arabiyah*, 286.

¹² Qism lhya' al-Turath al-Islami 3/23/6-326/13 . see Appendix 1.

to pay the uncollected *hikr* in arrears since 1921 for a total of 1257 Jordanian dinars. In 1952, the *hikr* was assessed at 500 kilos of beans, along with another voluntary donation of 500 kilos.¹³

Schmidt College

The Schmidt College, north of Damascus Gate, appears in the records of a number of land purchases. In 1871, the German Deputy Consul purchased a piece of land from the family of the sons of 'Umar al-Husayni, the Naqib al-Ashraf. Its boundary to the south was the street between Damascus Gate and Jaffa Gate; to the east, it was the property of the al-'Asali family; to the north, the property of the Talhami family from Bethlehem; and to the west, the street leading to al-Muskubiyah (the Russian Compound). It cost 500 gold lira.¹⁴

The Schmidt College is recorded under different names, such as in 1869 when 11 pieces of land were purchased. The listing of their boundaries record that they were behind "the buildings of the Prussian government."¹⁵ In 1898, a petition from the families of Jerusalem about the sale of a piece of land in Damascus Gate, specifies that the south boundary was "the property of the German Kaiser Wilhelm II."¹⁶

Hanna Frutiger, the director of the German Bank in Jerusalem, is frequently cited in court documents connected to land purchases. For example, in 1897, he sold land east of the Schmidt College, which contained the cave where the Protestants claim that Jesus rose

from the dead: the Garden Tomb. Frutiger also owned another piece of land near the college.¹⁷

The Convent in Malha

In 1904, a convent, known as the Soeurs de Saint-Charles Borrome, received a permit to purchase a piece of land, more than four dunams in size, which was at the disposal of the German Consul in Jerusalem located in al-Baq'a (Malha). The permit specified the building's dimensions at 50 x 31 x 18 m at a cost of 45,000 marks. The value of the land was 12,600 piasters. A third of it was an endowment and the remainder was miri land. The sister paid the *hikr* tax of 10/1000 of the land value.¹⁸

However, even earlier, in 1901, the court registers record a dispute over a piece of land in al-Baq'a between a French person and the nuns in the German Retirement Home located in the village.¹⁹ That shows that the building had been constructed before the permit was issued. Permits frequently were issued for existing buildings.

Other Institutions

Several other German religious institutions were involved in land purchases in Palestine. In March 1904, a permit was issued for the establishment of a school in Bayt Sahur for the "German denomination" with dimensions specified at 40 x 20 x 10 m.²⁰ In 1887, an agreement was reached to establish a 16-room hospital near the border between Bethlehem

¹³ Qism lhya' al-Turath al-Islami 3/23/6-326/13. See Appendix 2.

¹⁴ Sijill 360:52-53.

¹⁵ Sijill 357:263-266.

¹⁶ Sijill 393:186.

¹⁷ Sijill 391:18.

¹⁸ Abu Husayn and Sa'dawi, *al-Kanais al-'Arabiyah*, 310-311.

¹⁹ Sijill 393:184.

²⁰ Abu Husayn and Sa'dawi, *al-Kanais al-'Arabiah*, 72.

and Bayt Jala. The German Consul had originally purchased the property to be used as a Protestant cemetery.²² In June 1904, a permit was issued to the Palestine Society in Berlin for the construction of a church and a bell tower, 29 m high.²³ Many other German religious institutions exist in Palestine, as indicated by thousands of Ottoman government documents. The abovementioned cases barely scratch the surface of documents that will require years of further research to fully examine.

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²² Ibid, 57.

²³ Ibid, 73.

