



Historical

FEATURES

Sixteenth Century Jerusalem: A Model of Coexistence?

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The Mt. Zion Crusader-era church rehabilitated by Franciscan monks in the 14th century, and used as a monastery until 1552.

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The city of Jerusalem has been a favourite topic of historians over the centuries. Surrounded by its magnificent stone wall, the Old City appears to admirers as a vast, open museum that boasts among its exhibits narrow alleys and vaulted markets, ancient remains and holy shrines and a unique mixture of inhabitants. Under the Muslim Ottoman empire, Arab, Jewish, Christian, Armenian and Greek communities, to cite just a few, lived one next to the other.¹

Nonetheless, ownership of the city has always been disputed. What is more, as Elias Sanbar says,

La question de Jérusalem ne peut être séparée de la question de Palestine. Certes, le prestige unique de la Ville sainte, sacralisée avec la même ferveur par les trois religions monothéistes, la présence sur son sol d'un grand nombre de lieux de culte dont certains se chevauchent et parfois se confondent, enfin les passions qu'elle a déchaînées à travers l'histoire et qui l'ont plusieurs fois mise à feu et à sang, justifient qu'on lui réserve un traitement à part.²

This study is not aimed at tracing the historical roots of the city of Jerusalem, but exploring relationships, if any, among various cultural and religious communities within sixteenth century Jerusalem. My research focuses on Jerusalem as a precedent and a model for trying to understand, through administrative documents, statistics, and personal and historical accounts, how different communities lived side by side.

In order to analyze these political, social, and religious dynamics, I have examined primary and secondary sources, including documents, memoirs and the research of others, and will use these to examine significant aspects of everyday life.

Recollections from the Franciscan apostolic mission in Jerusalem were scrutinized alongside sixteenth century *shari'a* court records from the Jerusalem *Sijill* (Islamic court archives). The *Sijill*'s documents have been collected and translated by Amnon Cohen in his work *A World Within: Jewish Life as Reflected in Muslim Court Documents from the sijill of Jerusalem (XVIth Century)*. As the title suggests, the work concentrates on the Jewish community. The Franciscan recollections provide a different lens through which to observe urban life in this period; although incidents are not be the same as those in Cohen's work, there is the possibility of samples of interaction. Moreover, those examples, if considered in their proper cultural and historical context, will shed light on the Ottoman-Muslim system of coexistence.

After presenting those elements in an analytical fashion, I will make some general observations based on scientifically-relevant aspects of the discussion.

Heuristic Value of Local Sources

In past decades, new approaches and methodologies have been elaborated to examine the history and institutions of the Near East. As the leading Ottomanist Halil Inalcik states, since WWII the history of the Ottoman Empire has focused mainly on military and diplomatic events.³ Eventually, the historiographic trend started by the French school of Annales and Fernand Braudel's *Civilizations and Mediterranean Empire in the age of Philip II* paved the way for new perspectives on the study of the Muslim world. The Ottoman Empire was included as a key actor in the history of the Mediterranean basin and scholars oriented their research towards sources and materials that elucidated not a linear but a *problematic* history.⁴

In this sense, the pioneering study of Bernard Lewis, "The Ottoman Archives as a Source for the History of the Arab Lands"⁵ highlighted this newly-acquired awareness—becoming familiar with archival resources, forms of document listings, and specific categories such as the '*muhimme defterleri*' (imperial register), '*jyzie*' (poll-tax), and '*tahrir*' (survey of tax paying population). These tools provided opportunities for investigating expressions of local life according to the organizations of the state and the conceptual structures of Ottoman-Muslim life.⁶ Lewis himself emphasized that

historical analysis of collective life that focuses solely on either personalities or events is fated to a limited knowledge of real life, daily activities, and cultural constructions.

About the “Croniche di Terra Santa”

The recollections collected in the manuscript entitled “Croniche di Terra Santa” (“Chronicles of the Holy Land”) view the region as part of an ecclesiastical system of administration. When the first *Capitolo Generale* (General Assembly) of the Minor Friars’ Order met in 1217, St. Francis of Assisi proposed, among the principles for ruling the newly-constituted order, the division of the world into provinces where the gospel was to be spread. The province of the Holy Land (*Terra di Promissione*) was one of these.⁷ The chronicles about this region, then, outline events that occurred between 1304 and 1636. Their author was Father Verniero da Montepeloso who was responsible for the convent of the *Custody of the Holy Land* from 1634 to 1636 (his title was ‘Guardian Father’) and he dedicated himself to gathering together historical materials, official documents and other relevant papers.⁸

The Franciscan presence in the region was registered from 1333 when Brother Ruggero Garini obtained the St. Cenacolo convent on Mount Zion from the Sultan of Egypt, after which, through the generosity of Queen Sancia of Naples, the Franciscan monks were able to settle there. The official recognition of the mission from the Holy See, though, came only afterwards, when the papal bulls “*Gratias agimus*” and “*Nuper carissimae*” in 1342 established the code for a new religious organization: the Custody of the Holy Land.⁹

At the beginning of the twentieth century, Father Gerolamo Golubovich, in charge of collecting all the documents of the Franciscan presence in the Holy land, decided to publish within his ample edition *Biblioteca bio-bibliografica della Terra Santa e dell’Oriente Francese*, the manuscript that concerns us here.

The work deserves in-depth study, as the complexity of Golubovich’s editing and his generous notes and commentaries create a large critical appendix within the volume itself that merits accurate palaeographic study. I, however, have decided to use it as it appears: a personal viewpoint on Jerusalem.

The edition is divided into six books, and from the beginning, the apologetic tone is clear.¹⁰ Each book contains sections of documents regarding the missionaries; apostolic activities; a description of the Holy Land and its sites; a catalogue of records and other official writings; a register of alms and other expenses, and memories and events. In the second book, for example, a variety of Christian “nations”¹¹ is mentioned. But the portrait is not free of prejudice: inhabitants are divided into believers and unbelievers. The former are Catholics or “Latins”, together with the Oriental brethren—Copts and Assyrians. The later include heretics and Muslims. The adjective applied to Orthodox Christians is “schismatic”; among them we find

three other congregations: Greek, Georgians, and Serbs. In a detailed report, other derogatory attributes are applied to these groups.¹² The vast jurisdiction that the Orthodox patriarch enjoyed over the Syro-Palestinian region is recognized, however. Together with the official seat in Istanbul, the ancient patriarchates of Antioch and Alexandria were considered under his authority. In the face of that, the Roman Church was represented by the “Guardian Father”, who was a reference for both local and foreign believers (i.e. the French and the Venetian ambassadors, their families and other co-religionists).¹³

Life in Jerusalem, According to the “Croniche di Terra Santa”

Verniero’s account of Franciscan life in Jerusalem gives us a sense of unease, of subtle yet profound hostility shown by the city’s inhabitants to one another, whether they be Muslims, Jews or Orthodox Christians. Franciscans, as non-lay figures, generally employed themselves in charitable or other missionary activities that permitted them to maintain their presence and a “Catholic” control over holy sites. When adverse situations arose, they relied on Christian powers (mainly Venice, France and the papacy itself) represented by ambassadors at the Sultan’s court.

Notwithstanding the Franciscans’ sobriety, it is significant to recall the spirit that motivated the friars: expressions such as “*stones decored of Christ’s blood*”¹⁴ or “*pass away to Heaven’s delightfulness and go towards the death by martirdom*”¹⁵ were common in their writings. Furthermore, the monks called themselves and were recognized as ‘Franks’ (French), an indication of social status more than geographical affiliation. As French, they were seen as enemies and were suspected of viewing Jerusalem with covetous eyes. The legacy of the Crusades was still alive.

There are examples, for instance, of singular or collective claims against the ‘Franks’ that cast light on popular perceptions. The attitude behind the accusations betrays a common fear that the friars could host Christian (read: French) armies who would take aggressive action and besiege the city.

The case of the monastery of Mount Zion is illustrative. The issue began in 1522 when a Jew informed against the friars residing in the convent. They were reportedly celebrating their rites in the Cenacle Chapel without taking care of the Tomb of Prophet David underneath it. A sheikh, informed by the Jew, took advantage of this testimony in order to deprive the monks of that strategic site and transform it into a mosque. A case was opened that eventually led to the loss of the convent in 1551. It is noteworthy, however, that the slow process of dispossession involved the entire Ottoman hierarchy, from the *qadi* (judge) to the sultan, as well as their Christian counterparts. Moreover, rudimentary means of communication impeded a direct application of orders, thus offering the victims an opportunity to appeal to a higher ranking representative.¹⁶ In fact (Golubovich added in a historical reconstruction), while the sheikh made a plea to the sultan and the sultan himself asked the pasha

of Damascus to intervene in order to “move the friars from the convent and find an alternative location” (translation mine), in 1525 the guardian father obtained a second *firman* (order) that was more favourable. This time, the grand vezir was in charge of carrying out the order and thus the monastery was divided between the Latins and the Muslim sheikh. The latter acquired David’s Tomb and some rooms but was told “[the Franciscans] should not be bothered anymore”.¹⁷

This co-habitation was troubled and disputes reoccurred. This time, a new institutional intervention bricking up the doorway between the two parts established the route to be walked by the monks in order that they not disturb the neighbours. Yet the sheikh persevered, interference from Christian representatives as a means of restoring ‘Latin’ possession over the place proved useless, and in 1551, the property was lost.¹⁸ A firm reply from European powers—first the ambassadors at court, the Venetian doge, then the French monarch—arrived quickly, but Sultan Suleiman’s answer was that he could not contravene Islamic law, the source of right and of his own power, which prescribes that a church converted into a mosque cannot be reverted to the previous function (“as it would have been in France,” Suleiman added). However, it was assured that compensation would be granted. After temporary residence in a small place called “bakery house”, seven years later, the guardian father chose an old structure, St. Saviour Convent, belonging to Georgians.¹⁹

Once the guardian father submitted his request to the *qadi*, the *mufti* (jureconsult) and the *sanjaq-bey* (district governor), obtained a favourable ruling allowing the ‘Latin’ community to move. A further step was undertaken to settle the question officially: the local *diwan* (assembly), made up of high-level local functionaries, notables, and the representatives of both Franciscans and Georgians was convened, and the decision was ratified. Lastly, the Franciscan superior decided to complement the judgement with a formal act of purchase, paying the Orthodox Georgians 1,200 gold coins.²⁰

That decision proved convenient when, in 1595, the newly-appointed Georgian superior claimed his rights to the place. Verniero reports of a formal petition made by the Georgians to the *qadi*. Although he presumed that the Georgians tried to influence the judge with money, the intervention of Christian ambassadors resulted in a resolution on behalf of the ‘Latins’.²¹

Controversies between Christian communities were not uncommon, posed not only over religious places but also over civil accommodations. In 1544, the guardian father had to make a plea to Istanbul to validate the acquisition of a contested house: “...I don’t know if by Turks or other Christians.”²²

Other cases were registered around repairs. In 1549 in Bethlehem, and in 1555 in Jerusalem, because of Franciscan works on damaged holy shrines, Greek Orthodox monks denounced the Latins, charging that they were actually carrying out illegal actions, such as the construction of fortifications.²³

Once freed from a long period of imprisonment to which they were subjected after Suleiman's defeat, the friars found out that Copts and Armenians had modified arrangements within the Church of Holy Sepulchre; not only some of their properties were missing, but they were also deprived of the customary procession they used to hold on Easter.²⁴ This episode allows us to suppose, together with Cohen that, despite formal prohibitions on conducting religious ceremonies, ringing bells or riding animals in public, in fact, amendments were carried out. In a detailed description about Easter rituals, Verniero tells us that the guardian father, for example, used to ride a donkey across Josaphat valley and the Gethsemane. The liturgy was a sort of public feast in which devotees and passers-by took part. Moreover, because public occasions triggered excitement, upon the friars' demand, the liturgy was escorted by *jannissaries* (the Imperial Army), who intervened in case of hostile intrusions.²⁵

It is possible to conclude from the writings that missionary life in Jerusalem at that time was not easy, characterized by the role and position adopted by religious people, and a demand for austere conduct almost close to self-sufficiency. Whether local people saw this as wary distance, or whether the attitude was a by-product of cultural and political dynamics, both internal and external, it is not simple to say.

Generally, I argue here that forms of collaboration and negotiation existed. Although communities probably did not feel a sense of solidarity as subjects under the same ruler, or experience conditions that might cement a sense of belonging, when common intentions became apparent, nevertheless, cooperation did emerge.²⁶

Shari'a Court Records: A Different Perspective?

The documents analyzed by Cohen come from the Jerusalem *Shari'a* Court and concern daily activities supervised by the *qadi*. As the head of the court, he was locally responsible for the application of Islamic law; this meant that he had to supervise or ratify acts of purchase, inheritance, petitions, market and '*ammam* inspection, as well as the implementation of imperial *firmans*. The official papers, therefore, provide an opportunity to read through everyday actions, and shed light on interactions of the composite populace of Jerusalem.

It is important to say that in the court's records, broad denominations are used. To describe religious affiliation, for example, the word 'Christian' (in Arabic '*al-Nasara*') is used to specify the whole 'bloc', without taking into account the many different congregations.²⁷

Periodically, when the case requires it, some details are provided. The term 'Franciscan' appears, for example, when a robbery occurred in the Franciscan convent (the accused was exposed at the witness of three people, two Jews and a 'Christian').²⁸ The denomination 'Orthodox' appears once in a record of a monk, serving as deputy of the patriarch, denouncing an act of extortion in the collection of *jizya* (poll tax).²⁹

Other specifications are visible, such as the word ‘*Ifranj*’ to indicate both Catholics and Jews with European origins³⁰ and ‘*al-Rum*’ to indicate Greeks (which is to say ‘Greek Orthodox’). Aside from these episodes, it is possible to argue that detailed identifications were not regularly utilized; it is not clear if this is due to inadequate administrative instruments or the inaccuracy of the court scribe. More generally, we can assert that ‘categorization’ in administrative or legal terms follows different criteria than individual self-consciousness: Ottomans considered non-Muslims as ‘*ta’ifa*’ (collectively) or ‘*dhimmi*’ (singularly).³¹ In other words, the central Ottoman concern was grasping the demographic composition in order to fulfil one of its most remunerative activities: tax exaction. To verify this hypothesis, institutional documents are helpful: surveys conducted by Ottoman functionaries are introduced in a study by Bernard Lewis and Amnon Cohen.³² Although demographic changes are registered within each single religious community, in the table regarding the collection of *jizya*, non-Muslim peoples are grouped all together.

Taxes on ‘*ahl al-dhimma*’

	932/ 1525–6	945/ 1538–9	955/ 1548–9	961–4/ 1553–7	970–5/ 1562–7	1005/ 1596–7
Jerusalem	19,080	32,560		51,920 (ID) 11,360 (W)	53,920	
Hebron (W)		2,160		640	880	880
Gaza	21,180	31,040	38,000	35,440		34,380
Ramle (ID)	1,560	2,640	7,280	6,000		6,560
Nabulus						
Safed (ID)	31,310 ⁸¹			94,000	160,600	

Source: A. Cohen, *Population and Revenue in the Towns of Palestine in the Sixteenth Century*

Cohen asserts that some sort of recognition of the variety of cultural and religious backgrounds of the population was exercised. In Jerusalem, for example, every quarter (*mahalla*) had its own *sheikh al-hara* who was a territorial authority (often assisted by local notables among which Cohen also found Jews). However, on a ‘communitarian level’, each congregation had a referee who acted as an intermediary between governing functionaries and the community. The intermediary, in fact, was in charge of collecting taxes among his co-religionists; he dealt also with matters of public interest, signed official papers, and guaranteed debts. Most of the Christians (Georgians, Copts, Armenians, Assyrians) recognized their ‘*batrak*’ (‘patriarch’) or ‘*muntran*’ (‘archbishop’) as a dignitary. Latins and Abyssinians had a representative

of inferior rank (Franciscans, indeed, had the ‘guardian father’). Jews and Orthodox deputies were officially appointed by the qadi (Franciscans did not comply with this practice)³³ but the nominee had to enjoy approval from its members (cfr: “members of the Jewish community asked the kadi to appoint Musa b.Salim b.Murdakhay as their spokesman”).³⁴

On the whole, local practices of distributing functions, whether they were administrative, such as *‘amil* (tax collector)³⁵ or *na’ib* (deputy)³⁶, or consultative (cfr: “the kadi appointed a head of the silversmith guild at the suggestion of the Christian and Jewish silversmiths”³⁷; or “Jewish dignitaries consulted over the numbers of people liable to poll tax”³⁸; or “Christian dignitaries signed an official complaint against Muslim immoral behaviour”³⁹), seems to match imperial patterns of pleasing different cultural groups in order to establish loyalty and secure trustworthy delegates.

With regard to public offices, it is important to underscore that there were cases of appointees who used public power to extort money. This could happen when the *jizya* was levied on non-Muslim inhabitants, but it was not uncommon for abuses to be committed “without discrimination” (“Jewish and Christian silversmith complain to the secretary of the revenue of the empire of an unlawful tax of 600 *uthmani* levied from them annually. Upon inspection of the *tahrir* register he forbade any similar levy” and “A delegation of spice dealers consisting of Muslim Christians and Jews complained to the court of the high handed behaviour of the inspector of the market against them. The court reiterated an earlier imperial decree forbidding the *muhtasib* [inspector] from any interference in the trade or business in the trade dealers’ market”).⁴⁰

In conclusion, from these examples, it is possible to imagine a lively urban life where people, regardless of their origins or religious belief, cooperated and took part in ordinary activities without suspicion or resentment.

A final case indicative of this is that of the new vegetable market. When the time came to distribute the vendors’ boxes, which were 40, these were equally distributed among the communities: 13 to Christians, 13 to Jews, and 14 to Muslims, who were, indeed, the majority.⁴¹ It also suggests that there was no preclusion from certain economic activities; other records in the *sijill* confirm members of each religious community as associates of different local guilds (jewellers, blacksmith, butchers, and physicians).

To sum up, Jerusalem, as a circumscribed milieu, proves to be a lens for observing how roles, institutions, and legal codes acquire meaning and how they are respected or interiorized by single inhabitants and wider communities. In this sense, the ‘Muslim culture’ of that time can be seen not as a static reality but a socio-historical outcome in which priorities are imposed or negotiated according to social forces and dynamics intervening on a specific territory.

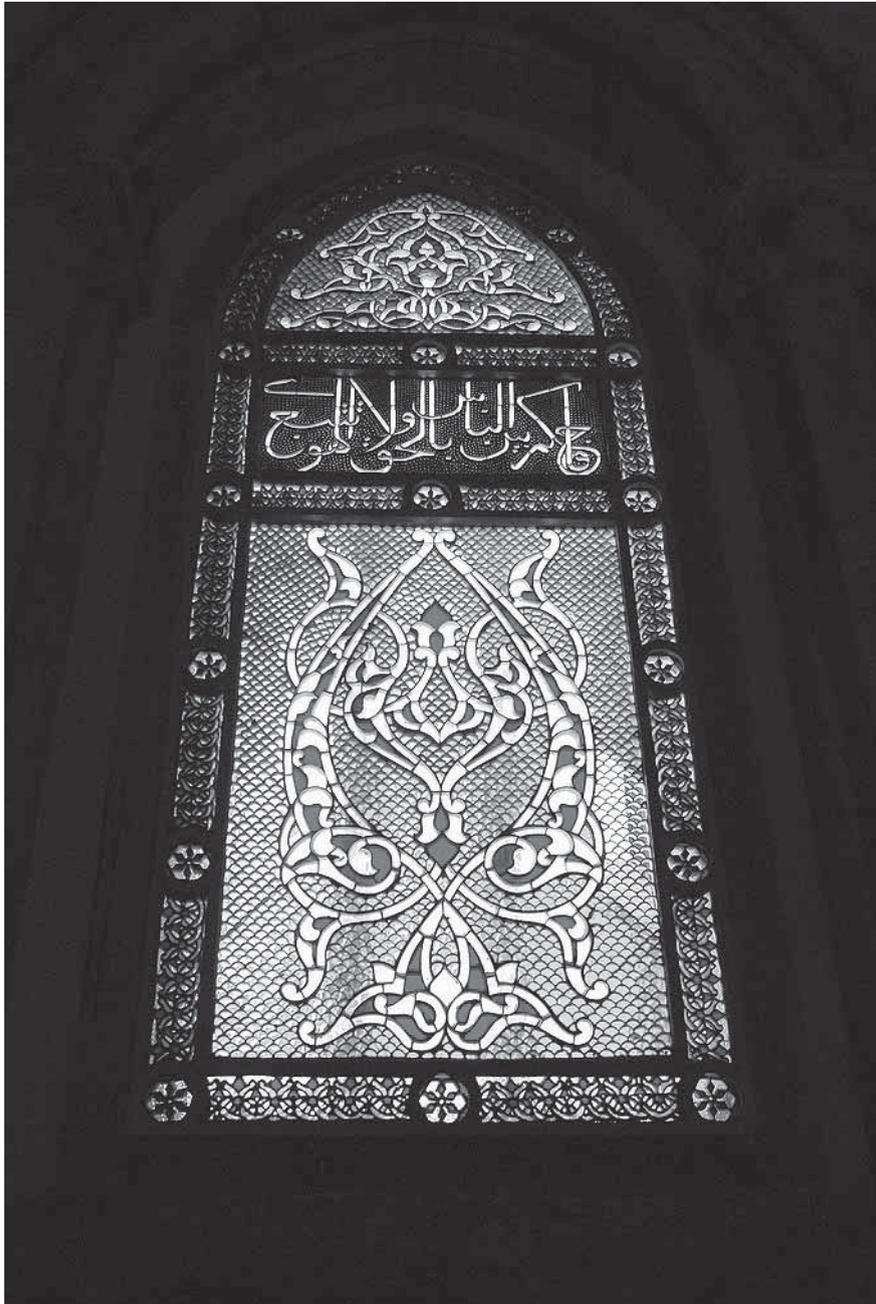
Organizing Palestine in the Sixteenth Century

It is widely recognised that the sixteenth century was a period of consolidation for Ottoman governmental structure and military expansion. The Ottomans entered Jerusalem in 1517 after defeating the Mamluks. At that time, they were already backed by a stable imperial organization that provided them resources needed to face the enemies that blocked their way to territorial enlargement. The organization of the state was founded on the accumulation of resources by territorial acquisition and massive fiscalization of commercial and agricultural activities, combined with a specific poll-tax (*jizya*) levied on non-Muslim subjects, who were not required to take part in military campaigns or recruitment. The objective was building wealth and guaranteeing population welfare. The Ottoman sultan was the political, military and religious chief, thus it was his duty to accomplish an “economy of plenty”⁴² and redistribute assets for the prosperity of the “imperial flock” as a whole.

The imperial territory was divided for fiscal reasons into provinces (*vilayet*; singular *vilaya*) headed by a chief (*wali* or *pasha*), appointed by the sultan, who was in charge of maintaining order and raising taxes. *Vilayet* were further divided into smaller districts (*sanjaq*), whose areas generally were cut around significant centres such as Jaffa, Nablus, Jerusalem and surrounding villages and whose control was entrusted to a *sanjaq bey* or *mutesellim*.⁴³ Judicial districts (*qada*) might overlap administrative sectors such as one *sanjaq*⁴⁴ or transcend it.⁴⁵ The *qadi* was the head of the court and he was responsible for the *qada*. Despite holding a socially prestigious duty, the *qadi* needed to be assisted by the *sanjaq bey* or his deputy (*subashi*, responsible for the local police force) in order to perform his functions. Jerusalem was considered a *sanjaq*, and it was included in the *vilaya* of Damascus, and thus entrusted to the *wali* of Damascus.⁴⁶

The *sanjaq bey* of Jerusalem was responsible for maintaining order and raising taxes, which in that area meant also keeping Bedouin tribes in check, building fortifications and supplying public works when required.⁴⁷ Even if appointment to public office was the prerogative of the central power—the *wali*, indeed, was generally an Ottoman Turk—representatives in smaller districts were designated by the provincial governor.⁴⁸ Fundamentally, the designation depended both on social status and on the capacity to exert control over territories; during the seventeenth century, for example, the *wali* of Damascus often farmed out the collection of taxes to certain sheikhs in order to reach a compromise with recalcitrant local chiefs. Obviously, this could result in a precarious balance and threaten official hierarchy.

In conclusion, administrative organization served to fulfil activities that were fundamental to supporting the Ottoman imperial structure: the collection of taxes and strict control over the territorial domain. Compartmentalization of tasks and responsibilities occurred in response to inspection needs and application of government dispositions. The relevant literature reports the need for a certain



An Ottoman-era inscription in the stained glass of the Mount Zion church.
Source: www.sacred-destinations.com, © Lane Greene.

flexibility in demarcation of territories and functions; this also varied with the individual and his authority.

It appears from the outside looking in that a vague definition of limits, whether about districts or duties, resulted from an insufficient rationalization of governmental activities. Some scholars, though, attribute this to utilitarianism. It should be considered that the low population density in some areas and the unavailability of arable soil did not make supervision duties easy. On the whole, the Ottoman organization of power contemplates suitability to the social and cultural heterogeneity of the realm, producing a balance between self-government and adherence to central authority.

The Legal Status of Non-Muslims under the Ottomans and in Islamic Law

In order to raise more general questions, I will revert here to analysis of the institutional documents, focusing first on the *millet*. In the period under consideration (the sixteenth century), Cohen argues that he did not encounter terms referring to institutionally-recognized religious groups. According to the *Encyclopaedia of Islam*, the term '*millet*' means "religious confession and, more generally, community or nation". We must wait, though, until the nineteenth century for the so-called *millet* system, the indirect rule through which the Ottoman state dealt with diversity in its regime and increased eligibility and order among various cultural and religious units.

Nevertheless, some scholars⁴⁹ registered the institution of *millet* as an immediate juridical and administrative device through which the Ottoman state intended to manage relationships with subjects who maintained a different ethical and cultural system. More specifically, this meant that a specific community residing within the Ottoman domain, once it recognized the Muslim-Turk authority and submitted to its rule, received protection in exchange for the payment of a specific poll tax (*jizya*) and was thereby eligible for administrative, legal, religious and educational autonomy.

In this regard, Shaw asserts that Sultan Mehmet decided, once he seized Constantinople, to appoint Gennadios Scholarios as the new Orthodox patriarch, thus giving him responsibility over the Christian flock. This decision, more strategic than moral, resulted in the constitution of the first *millet* (in 1454) and the attribution to the patriarch of some autonomy in civil, religious, legal and fiscal matters. He received the rank of '*pasha*' and was provided with jurisdiction over Orthodox Christian followers. Eventually, Jews gained the same privilege, headed by a 'chief rabbi' established in Istanbul, as did the Armenians (in 1461).⁵⁰

Despite this standpoint, Benjamin Braude, in a monographic study on the Jewish and Christian presence in the Ottoman empire, posits that the *millet system* is a sort of mythological construction. Although the origins of the term can be traced back

to the Qur'an in the concept of '*millet Ibrahim*' (which, in medieval times might refer to Muslims and Jews, as well as Christians), it nonetheless does not account for the ordinary classification of religious groupings as *ta'ifa* (group or community) or *dhimmi* (person subject to *dhimma*), as shown in institutional documents such as *muhimme defterleri* or *sijill* during the first centuries of Ottoman reign.

It is widely recognized, however, that *Tanzimat* reforms between 1839 and 1870 not only introduced a revision in terms of territorial administration, but also outlined a sort of chart of rights for Ottoman subjects, recognizing equality for all the communities, in other words, *millet*, vis-à-vis the Muslim authority.⁵¹ It has been reported that those norms were a consequence of European economic and political penetration from the eighteenth century onwards. In any case, it is significant to sketch the theological justifications provided in Islamic doctrine regarding the acknowledgement of other religious traditions, in particular the revealed religions. Thus, the heuristic value of the study of institutional documents and private records is the opportunity to investigate principles, concepts, procedures pertaining to social organization and, accordingly, the intellectual development of social institutions.

With respect to this perspective, it is interesting to consider the concept of *dhimma* (a pact of protection) that links Muslim and non-Muslim. As a Qur'anic concept, Bosworth maintains that it is cited only twice (8, 10:9).⁵² In a *sura* that expresses a profound hostility towards idolaters, requiring Muslims to triumph over them, the "People of the Book" ("*ahl al-kitab*") are afforded security, provided that they pay the *jizya* and accept the pact of allegiance (*dhimma*). Those conditions determine the legal status of confessions—inclusion, within the boundaries of *dar al-islam*.

Pacts, as formal agreements between individuals or parties, are a pre-Islamic legacy. Religion, as Durkeim puts it, is a social phenomenon and it is society that reaffirms itself through religion.⁵³ The Prophet Muhammad, as a charismatic leader, was in charge of achieving and preserving social integration even if that meant amending conventional social behaviours. Muhammad, therefore, restored a well-known practice, giving it new symbolic meaning.

It is significant to recall another source of Islamic doctrine in order to understand the juridical assumptions that direct social practices; it is the *Sira (Prophet's Life)*, by Ibn-Ishaq, where the "Constitution of Medina" is reported.⁵⁴ The constitution marks a significant passage in the history of Islam. It demonstrates how God's envoy, in 622, established the base for the *umma* or Muslim nation. This affirms the political and social relevance of Islam and extends the study of Islamic civilization towards a multidisciplinary approach that considers the intersection of different perspectives: juridical, theological, social and political. On these premises, Jerusalem represents an analytical case study.

This section of my work, therefore, will focus on the religious dimension as a prism through which to interpret social dynamics and point out some scientifically-relevant

aspects. The contingencies that determined the codification of the Medina document are interesting for investigating the social logics produced by religion. The new community aimed at regulating the presence of pagan and Jewish groups. Towards the former, there was an antagonistic attitude, while a co-operative disposition was displayed towards the Jews. Careful scrutiny reveals a sense of inclusion: “the Jews of Banu Auf will form a community together with the Muslims. To Jews their religion, to Muslims their own” (translation mine).⁵⁵ This norm agrees with the spirit of revelation of the Meccan period. The prophet, in confrontation with his relatives, left Mecca, posing religion and not family ties as a community adhesive. The following are among the most significant verses reflecting this model of social organization:

[D]o not argue with the people of the scripture except in the nicest possible manner—unless they transgress—and say “we believe in what was revealed to us and in what was revealed to you, and our God and your God is one and the same, to him we are submitters.” We have revealed to you this scripture, and those whom we blessed with the previous scripture will believe in it. Also, some of your people will believe in it. Indeed, those who disregard our revelations are the real disbelievers.” (29: 46, 47)⁵⁶

Eventually, during the so-called Medina period, action gained supremacy over reflection and communication of the holy message. The content of the revelations were more prescriptive, and new principles apt to the consolidation and the expansion of the Islamic community would be acknowledged (5, 48-52):

Then we revealed to you [Muhammad] this scripture, truthfully confirming previous scriptures, and superseding them. You shall rule among them [Jews and Christians] in accordance with God’s revelations, and do not follow their wishes if they differ from the truth that came to you. For each of you, we have decreed laws and different rites. Had God willed, he could have made you one congregation. But He puts you through the test of the revelations He has given each of you. You shall compete in righteousness. To God is your final destiny—all of you—then He will inform you of everything you have disputed. You shall rule among them in accordance with God’s revelations to you. Do not follow their wishes and beware lest they divert you from some of God’s revelations to you. If they turn away, then know that God will punish them for some of their sins. Indeed many people are wicked. Is it the law of the days of ignorance that they seek to uphold? Whose law is better than God’s for those who have attained certainty?

*Oh, you who believe, do not take certain Jews and Christians as allies; these are allies one another. Those among you who ally themselves with these belong with them. God does not guide the transgressors.*⁵⁷

Faith thus became a political value (“...*plutot c’est la seule vraie valeur d’ordre politique, la seule qui donne à la cité sa raison d’être*”⁵⁸). The values posed as the formal structure of society determined the identity of *umma*, in accordance with the Oneness of God, the pillar of Islamic theology. In reality, *umma* includes various communities. Georges Corm states that if the verses of the Meccan period appear ‘conciliating’ and express a tendency towards ‘religious pluralism’, eventually a different attitude prompted by the consolidation of territorial boundaries will be inaugurated. The limits of ‘tolerance’ were drafted according to historical circumstances, and the prophet faced opposition from Jewish tribes in Medina.⁵⁹ This provoked an ideological fracture in the constellation of religious confessions. Thus, scriptures were assimilated to infidels and the word ‘*kafir*’, which in the Meccan period designated only polytheists, came to include also *ahl al-kitab*.⁶⁰ The diversion is interpreted by Corm as a by-product of ‘monotheism’.⁶¹

This ethical-theological discourse is useful in order to evaluate the continuity or fractures that develop in Qur’anic prescriptions, either in terms of *fiqh* (Islamic doctrine) or in social practice. Antoine Fattal argues that access to the Islamic city is generally granted to non-Muslims and it is managed through the juridical notion of *dhimma*.⁶² Non-Muslims, as a result, are recognized as *dhimmi* and, consequently, they acquire private and public rights—described in detail by the author—but not political ones.⁶³

This normative code, though, is not always implemented in this way: the four Sunni schools of jurisprudence on the one hand, and the various political and social contexts on the other, have an impact on legal dispositions. With reference to the Ottoman empire, Turks, in order to discipline relations with Christian-mercantile powers (Genoa, Ragusa and more particularly Venice), took advantage of political-commercial instruments bequeathed by the Byzantine empire. An interesting dissertation about Ottoman-Venetian diplomacy⁶⁴ argues that juridical devices such as ‘*aman*’ (‘safe conduct’) or ‘*hudna*’ (‘political treaties’) were utilized by the sultan despite conflicted relationships with Venetians. It established not only commercial ties but provided Venetians with privileges that allowed them to reside in Ottoman territory while still maintaining Venetian ‘citizenship’, conduct commercial activities, own a house, and profess their own religion. Those conditions eventually would be extended to Franciscans and constitute a juridical precedent to the Capitulations (in 1535), through which France would eventually acquire favourable commercial treatments by the Sublime Porte.

Conclusion

In Fattal's analysis, Venetians would probably fall into the category of *musta'min* (infidels who have penetrated *dar al-islam*, and provided with temporary safe passage). What is relevant here, however, is that factual conditions, whether individual or collective, are fundamental in the creation of norms and in determining implicit behavioural codes and formal rules that are eventually implemented.

The Ottoman social and historical context, in fact, did not preclude other communities from participating in bureaucratic and economic activities. Following Edward Said, this historical example illustrates first that "far from being unitary or monolithic or autonomous things, cultures actually assume more foreign elements, alterities and differences, than they consciously exclude".⁶⁵ Second, it challenges concepts such as 'nation' and 'people', 'right' or 'rule', demonstrating how those terms are socially-determined.

As Louis Gardet explains:

*[N]i jus sanguinis, ni jus soli; la religion fait la citoyenneté. C'est l'umma [...] Ce concept d'umma est délicat à rendre dans les langues européennes.[...] D'après le droit traditionnel (fiqh), le musulmane libre, de l'hors qu'il est en terre musulmane, est citoyen du pays où il se trouve, même si ce n'est pas sa terre d'origine, et peut, s'il en a les capacités, y exercer toutes les charges à la fois civiles, juridiques et religieuses propres à la cité musulmane. On voit dès lors le problème posé depuis le milieu du XIXe siècle où, sous l'influence du droit public européen, le concept de nationalité s'est largement séparé, dans le pays musulmans, du point de vue religieux.*⁶⁶

In other words, my objective in this limited application was to use a different epistemological approach as a means of including the other's point of view, as required in the process of research.

In this sense, the scientific community, as Cultural and Postcolonial Studies show,⁶⁷ should be ready to propose and elaborate subtler scientific instruments, ones more sensitive to the peculiarities of the object and less bounded by disciplinary orthodoxy, and ones capable of accounting for different social and cultural identities and processes of affiliation. Doing so would be a concrete step towards the historical reconstruction and cultural awareness that accounts for the inner coherence, both cultural and institutional, of specific cultural and/or religious groups.

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Endnotes

¹ Considerable literature on this topic, even concerning other Muslim and/or Ottoman cities, corroborates this thesis. Cfr. Ethem Eldem, Bruce Mandel & Daniel Goffman, *The Ottoman City between East and West: Aleppo, Izmir and Istanbul* (Cambridge: Cambridge University Press, 1999); A. Raymond, *La ville arabe, Alep, à l'époque Ottomane* (Damas: IFD, 1998); A. Raymond, *Grand ville arabe à l'époque ottomane*, Paris, Sindbad, 1985; Yaron Harel, "Jewish-Christian Relations in Aleppo as Background for the Jewish Response to the Events of October 1850", *International Journal of Middle East Studies*, Vol. 30, No. 1 (1998), 77-96; Minna Rozen, *History of the Jewish Community in Istanbul: The Formative Years, 1453-1566* (Leiden and Boston: Brill, 2002).

² E. Sanbar and Farouk M. Bey, *Jerusalem, le sacré et le politique*, Paris: Sindbad, Actes Sud, 2000, 9 ["The question of Jerusalem cannot be separated from the question of Palestine. Certainly, the solitary prestige of the Holy City, sacralized with enthusiasm by the three monotheistic religions, the presence within it of a great number of places of worship, some of which overlap, and finally the passions that it has unchained throughout history expressed in fire and blood, justify a shared solution." Editor's translation]

³ H. Inalcik, *An Economic and Social History of the Ottoman Empire* (Cambridge: Cambridge University Press, 1997). ⁴ See J. Le Goff, *La Nuova Storia* (Milano: A. Mondadori, 1998) 12.

⁵ See Lewis, "The Ottoman Archive as a Source for the History of Arab Land", *Journal of the Royal Asiatic Society* 3-4, 139-155.

⁶ See Jon E. Mandeville, "The Jerusalem Shari'a Court Records: A Supplement and Complement to the Central Ottoman Archive", and Aharon Layish, "The Sijill of Jaffa and Nazareth Shari'a Courts as a Source for the Political and Social History of Ottoman Palestine", in M. Maoz, *Studies on Palestine during the Ottoman Period* (Jerusalem: The Magnes Press, 1975); A. Manna', "The Sijill as a Source for the Study of Palestine during the Ottoman Period, with Special Reference to the French Invasion", in David Kushner, *Palestine in the Late Ottoman Period: Political, Social, and Economic Transformation* (Jerusalem: Yad Izhak Ben-Zvi, 1986).

⁷ M. Piccirillo, *La custodia di Terra Santa e l'Europa: i rapporti politici e l'attività culturale dei francescani in Medio Oriente* (Roma: Il veltro) 16-17.

⁸ Verniero made two redactions: the first one was to be used exclusively by the guardian father, the second one was intended for divulgation. Initially Golubovich published the second edition and, eventually, he organized all the relevant materials coming from the first and the second manuscripts in a supplement. I mainly used the supplement edition, examining the previous one when it was necessary.

⁹ Piccirillo, *La custodia di Terra Santa e l'Europa: i rapporti politici e l'attività culturale dei francescani in Medio Oriente* (Roma: Il veltro) 18-19.

¹⁰ "Essendo cosa ragionevole che le l'onorate attioni, i fatti magnanimi di tanti servi di dio della serafica famiglia di Terra Santa (e precise di quei padri che con indicibili travagli governarono quei luoghi santi avendo sempre l'occhio di propagare a gloria di dio la s. cattolica fede e conservare et aumentare ivi il culto divino...) venghino rappresentati all'animo di ciascuno, a ciò si conservino appresso i nostri posterì..." Golubovich, *Biblioteca bio-bibliografica della Terra Santa e dell'Oriente Francese*, tomo IX, 2.

¹¹ It is interesting to highlight the use of the word "nation" here referred to religious communities. It shows the beginning of the elaboration process that eventually results in a more complex concept of identification and exclusion leading finally to the eighteenth century's nationalism. The term "nation" presents already an "ethnolinguistic" connotation that refers to a group's specific affiliation and distinguishes it from a wider community. In addition, although communities shared the same territory and were subject to the same system of rule, the case of Franciscans shows how the group's proper sense of belonging to a different entity determined not only a psychological distance from local habits and conventions but also it motivates requests of assistance from those authorities that they regarded as legitimate (say, Christian powers, for example).

¹² "in vari errori sommersi, superbi, audaci, ignoranti, protervi, maligni e pieni di falsità e calunnie, e per l'antica antipatia fatta ormai connaturale verso i latini trovano cento diaboliche e mille inventioni per maltrattarli e da quelle regioni scacciarli..." Golubovich, tomo IV, 33.

¹³ "...obediscono quei pochi popoli che infra i termini della giurisdizione del patriarca greco seguitano il rito latino, tanto naturali, quanto quei pochi d'Europa come l'eccellentissimi signori ambasciator francese e baiolo veneto, con li

mercanti e le loro famiglie e passeggeri...” *Ibid.*, 30.

¹⁴ “le pietre decorate dal sangue di cristo...”

(translation mine) *Ibid.*, 60.

¹⁵ “passare alle delizie del paradiso e trovare la morte nel martirio”, *Ibid.*, 65.

¹⁶ “...persuadendo uno di loro(ebrei) al santone(sheikh) del sacro monte Sion ,gli disse: che molto s’ammirava che i franchi possedessero in quella santa città un si gran tesoro[...la tomba del profeta] e tanto più che non la veneravano come si doveva poichè camminandovi sopra con I piedi dimostravano farne poco conto[....] che perciò consigliava ad operarsi di maniera che I franchi fossero da quel luogo scacciati e ne restasse lui padrone[...] e per facilitar il negozio avesse notificato al gran turco il probabile pericolo che passava la città, habitando I franchi fuor di essa in tal fortezza com’è il monte sion, potendo questi frati comodamente introdurci di notte a lor bell’aggio grosso esercito di franchi con segretezza[...] piacque sommamente questo diabolico consiglio al santone qual[...]comunicò al mufti della città il suo pensiero, dal quale ottenuta una fatve se ne passò secretamente in Rodi mentre Solimano la teneva assediata ...letta la scrittura comandò al Bassà di Damasco che, conferitosi personalmente in Gerusalemme, avesse discacciato i franchi dal Monte Sion (a’ quali fusse stata assignata habitazione dentro la città o si fussero divisi nel Santo Sepolcro et in Bettalem...). Golubovich, *op. cit.* 68. [...]mentre in tanta pienezza di travagli se ne stavano i frati, ecco sentir nuove,che Abraham Bassa, Gran Vezir, si trovava nella città di Gazza di passaggio, a cui tosto ricorrendo i frati, lo pregarono che con la pienezza della sua autorità avesse l’esecuzione di tal ordine impedito. Giudicando il Vezir troppo rigido e irragionevole il commandamento , mosso da humana pietà decretò che fusse in parte e non in tutto eseguito, cioè che al santone fusse consignata la sepoltura di David , con alcune stanze sottane per abitarvi et il Cenacolo con il restante della chiesa e convento fusse restato ai frati: e che per l’avvenire niuno l’avesse molestati...”

¹⁷ *Ibid.*, 70.

¹⁸ “...essendo andato il padre guardiano nella città di Aleppo per far confirmare alcune scritture dal Gran Vezir (circa la divisione del convento ndr) dubitando il santone che fusse andato contro di lui, volse con molta sollecitudine prevenirlo; onde informato i più principali della città di Gerusalem, come abitando i frati fuor di essa, in Monte Sion, la città se ne stava in molto pericolo di essere da

loro un giorno tradita e data in mano ai franchi, accertandoli haver con li suoi propri occhi più volte veduto, non pochi personaggi grandi d’Europa, vestiti da peregrini e ben’armati quali erano ivi non per devozione, ma per spiare ed informarsi da qual luogo si potesse agevolmente prendere la città[...]con queste ed altre ragioni[...] inviatisi a Costantinopoli ottenne un comandamento al cadì e sangiacco di Gerusalemme con ordine che in riceverlo avessero tosto e senza tergiversazione veruna scacciati i frati dal convento e l’havessero provvisti di altra abitazione dentro la città[] Aspettò volentieri il cadì il ritorno del guardiano, qual benché si faticasse al possibile con grosse profferte di danari,d’impedir tale esecuzione, fu nondimeno nell’anno 1551 promulgata la finale sentenza[...]. *Ibid.*, 82.

¹⁹ *Ibid.*, 162-63; also see 132-133 “Tu Francesco, che sei signore del paese di Francia, hai scritto le tue lettere, dando notizia alla mia imperiale Porta e felice e potentissima stanza, dove risplende l’immensa giustizia et inestimabil benignità: del caso della chiesa, che è nella rodia della nobil Gerusalem, una delle città del mio impero, dico, che essendo stato ab antiquo tenuta dalla natione di Gesù, e poi è stata fatta moschea: in ciò quant’hai narrato , s’è benissimo compreso. Per il che, per l’amicitia e benevolenza, che è introdotta fra la mia eccelsa maestà e tu, ogni petizione tua è acetabile, appresso la mia munificenza. Nondimeno[...] per la legge dell’honorato padre nostro ch’è sole in questo e l’altro mondo, quella chiesa o altro luogo che in qualche tempo è fatta moschea e li turchi hanno dentro quella adorato, è contro nostra fede che sia di nuovo disfatta e innovata. Se fusse per la nostra fede permesso, la petitione tua non saria stata appresso la mia felice liberalità alterata. Il transito e resto del luogo, dove è la moschea , sarà sotto il dominio de’ christiani e niuno impedirà né molesterà quelli che ivi stanzeranno sotto il corso dei nostri giorni[...]”

²⁰ *Ibid.*, 84.

²¹ *Ibid.*, 236.

²² “non so se da turchi o altri cristiani”. *Ibid.*, 151.

²³ *Ibid.*, 163.

²⁴ “trovarono che li copti avevano giunta alla tomba del santo sepolcro, nella parte occidentale, una rozza e goffa cappella[...]gli armeni ancora ampliarono dentro quel santo tempio il lor luogo perché non avevano chi li si opponesse; e trovarono perse anche molte cose, come scritture, suppellettili di casa, vasi e paramenti ecclesiastici, e soprattutto un grossissimo pezzo di legno della santissima croce che fu dato da un monaco armeno

rubato e portato in Armenia[...] fecero gli armeni in assenza di nostri frati la devota processione e cavalcata nella domenica delle palme, conforme è solito farsi dai nostri frati: e perché in quei paesi un sol atto è sufficientissimo ad introdurci la consuetudine, se n'erano talmente impossessati che[...] non volevano che più la facessero benché de jure spettava al convento..."

²⁵ "greci et hebrei per beffarsi (tenendo quelle cerimonie superstiziose) e per disturbare la processione urtando I nostri e tirandogli sassi ..." *Ibid.*, 168.

²⁶ *Ibid.*, 140, note n. 2: a contract was signed by two delegated of the Jewish community and representatives of Christian nations, that is, Catholic, Abyssinians, Greek, Armenians, Copts, and Assyrians, in order that no Jews walked past by the Holy Sepulchre door or the Mount Zion garden. The penalty was the payment of a 10.000 *uthmani* fine.

²⁷ *Ibid.*, 119, 127, 83.

²⁸ A. Cohen, *A World Within: Jewish Life as Reflected in Muslim Court Documents from the Sijill of Jerusalem (XVIth century)*, 2 vol (Philadelphia: University of Pennsylvania, Center for Judaic Studies, 1994) 45.

²⁹ It ought to be noticed that the accusation was against "the Jewish money changer for the official in charge of levying taxes and the janissary sent to receive the money". *Ibid.*, 136.

³⁰ "Yusif b. Musa the Ifranji (European) Jewish taylor and Aslan b. Frayim the Jew guaranteed a Christian 'Ifranji (catholic) debtor for the substantial sum of 162 gold coins" *Ibid.*, 54.

³¹ See Cohen, "On the Realities of the Millet System: Jerusalem in the 16th Century" in B. Braude and B. Lewis, eds, *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society* (New York; London: Holmes and Meier, 1982) 7.

³² Amnon Cohen and Bernard Lewis, *Population and Revenue in the Towns of Palestine in the Sixteenth Century* (Princeton, N.J., 1978).

³³ Golubovich, *ocit.*, 32.

³⁴ A. Cohen, 1994, 194.

³⁵ Jewish tax collector ('*amil*). *Ibid.*, 165.

³⁶ "Several Jewish dignitaries reported the death of Bisalil their rabbi, adding that from now on they are in no need of a rabbi (*khakham*). Should there be an issue concerning the governor that the rabbi would have dealt with in the past, they will have their deputy (*na'ib*) attend to it." *Ibid.*, 195 or "The Muslim head (*rayyis*) of the physicians guild of Jerusalem appointed a Christian and a Jew

deputy for the duration of 8 months of his absence on a trip to the capital." 67.

³⁷ *Ibid.*, 171.

³⁸ *Ibid.*, 169.

³⁹ *Ibid.*, 130.

⁴⁰ *Ibid.*, 132.

⁴¹ Cohen in Braude and Lewis, *op. cit.*, 11.

⁴² H. Inalcik, *An Economic and Social History of the Ottoman empire* (Cambridge: Cambridge University Press, 1997) 40-50.

⁴³ In the Syro-Palestinian region, *vilayet* were further divided into smaller unit, *mukata'a* or *nahiye*, which are indicated as feudal districts and thus entrusted to a local chief responsible for raising taxes, especially in villages, thus cutting the cost of this activity and creating a more stable relationship between the centre and the periphery. This system, inherited from the Seljuk rulers (*iqta'*), is not different from the institution of *timar* in the European part of the empire. Erroneously associated with a feudal form of power (the *timar*holder, in fact, had no property rights on the land and thus could not sell or bequeath it, moreover he did not interfere in agricultural activities and no allegiance linked the peasants to the "lord"), the allotment of terrain guaranteed a fief to the military class (usually paid in gender but eventually claimed in hard cash or farmed out to tax farmers) and a tax collector to the imperial organization. Moreover, each *sipahi* had to maintain a body of men to employ in armed operation and the state created ties between the cavalrymen and the dominion. Yet this form of "fiscal imposition" did not prevent the *timar*-holder as well as the *mutessellim* or *sanjaq bey* from exacting arbitrary taxes.

⁴⁴ The *qada* of Nablus was coextensive with the *sanjaq* of Nablus. See Cohen, 1973, 50.

⁴⁵ Ramla, i.e., belonged to the *sanjaq* of Gaza but depended on the *qada* of Jerusalem in judicial matters. *Ibid.*, 50.

⁴⁶ *mukata'a*. See Inalcik, *The Ottoman Empire: The Classical Age 1300-1600*, 55 and Cohen, *op. cit.*, 53.

⁴⁷ Cohen, *op. cit.*, 122; See also K. Asali, *Jerusalem in History* (Buckhurst Hill: Scorpion Publishing, 1989).

⁴⁸ Cohen, *op. cit.*, 172-179.

⁴⁹ On this topic see S. Shaw, *History of the Ottoman Empire and Modern Turkey*, 2 vol. (Cambridge: Cambridge University Press, 1976-1977); A. Hourani *Storia dei popoli arabi: da Maometto ai nostri giorni* (Milano: Mondadori, 1998); A. Levy, *Christians, Jews and Muslims in*

the Ottoman Empire: Lessons for Contemporary Coexistence (Near Eastern and Jewish Studies Department, Brandeis University, September, 2000); F. Baban, *Community, Citizenship and Identity in Turkey*, TIPEC Working Paper 04/4; K. Karpat, "Millets and Nationality: The Roots of the Incongruity of Nation and State in the Post-Ottoman Era" in B. Braude and B. Lewis, *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society* (New York; London: Holmes and Meier, c1982).

⁵⁰ Shaw, 136.

⁵¹ Especially with regard to taxation, penal sanctions and the system of representation within the newly established provincial council. See Maoz, 21-29, see also Braude and Lewis, 72-73.

⁵² Braude and Lewis.

⁵³ Halim Bakarat, *The Arab World: Society, Culture, and State* (Berkeley: University of California Press, 1993) 122-124.

⁵⁴ S. Noja, *Vita di Maometto* (Milano: Biblioteca universale Rizzoli, 1992) 73.

⁵⁵ "i giudei dei Banu Auf formeranno una comunità con i credenti. Ai giudei la loro religione, ai musulmani la loro." Again: "...ai giudei dei Banu n-Naggiar, dei Banu l-Harith, dei Banu Sa'idah[...]gli stessi diritti dei giudei dei Banu Auf. Osservanza e non violazione" (cfr. n. 25 e 26 of the document); Noja, 347.

⁵⁶ Translation from www.submission.org ; main reference A. Bausani, *Il Corano* (Milano: Rizzoli, 1996) 292.

⁵⁷ Translation from www.submission.org ; main reference A. Bausani, *Il Corano* (Milano: Rizzoli, 1988) 80-81.

⁵⁸ L. Gardet, *La cité musulmane. Vie sociale et politique* (Paris 1961) 25.

⁵⁹ Noja, 68.

⁶⁰ G. Corm, *Histoire du pluralisme religieux dans le bassin méditerranéen: approche juridique et sociologique comparée* (Paris: Geuthner, 1998) 151.

⁶¹ *Ibid.* 152.

⁶² "...convention en vertu de la quelle le non musulmans résidant sur des territoires par le musulmans, obtiennent de ce derniers la

reconnaissance de leurs droits publics et privés. [...] Elle est un lien contractuel établi, non pas entre deux Etats, mais entre un Etat et les chefs d'une population. Celle-ci abdique sa souveraineté externe et la majeure partie de sa souveraineté interne et accepte l'autorité exclusive de l'Etat musulman, à charge pour celui-ci de la défendre contre toute attaque venant de l'intérieur ou de l'extérieur. La dhimma, par ailleurs, crée des obligations s'adressant non seulement à l'Etat musulman, mais encore et directement à chaque musulmane et à chaque dhimmi. En ceci elle a les effets d'une loi. Ainsi lorsqu'elle est violée par un dhimmi, c'est lui seul qui cesse d'en bénéficier et non sa communauté toute entière." Fattal, *Le statut legal des Non-Musulmans en pays d'Islam*, 75.

⁶³ Cfr A. Fattal, *Le statut legal des Non-Musulmans en pays d'Islam* (Beirut: Dar el-Machreq, 1995) 73.

⁶⁴ Hans Theunissen "Ottoman-Venetian diplomatics: the 'Ahd-name'"; internet publication, <http://www2.let.uu.nl/Solis/anpt/ejos/pdf/VG01.pdf>

⁶⁵ E. Said, *Culture and Imperialism* (London: Vintage 1994) 15.

⁶⁶ Gardet, 27-29.

⁶⁷ On Postcolonial and Cultural Studies' epistemology see Bhabha H.K., *The Location of Culture*. (London: Routledge 1995); Chatterjee P., *The Nation and its Fragments, Colonial and Postcolonial Histories* (Princeton: Princeton UP 1993); Clifford J., *The Predicament of Culture: Twentieth Century Ethnography, Literature and Art* (Cambridge, MA: Harvard University Press, 1988); Hall S., "New Ethnicities", in J. Donald, A. Rattansi, *Culture and Difference* (London, Sage 1992); Hall S., "Cultural Identity and Diaspora", in P. Williams, L. Chrisman, *Discourse and Post-Colonial Theory. A Reader* (London: Harvester Wheatsheaf, 1994); Hall, S., *The Emergence of Cultural Studies and the Crisis of the Humanities*, October, (53) 1990; Said E., *Orientalism* (New York: Vintage, 1979); Spivak G., *The Post-Colonial Critic* (London: Routledge, 1990).

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