AN INTRODUCTION TO RELIGIOUS FOUNDATIONS IN THE OTTOMAN EMPIRE

BY

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TO THEODORA

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CONTENTS

PREFACE

Vakıf (pl. evkaf) has always held a position of central importance in Islam; together with the laws on inheritance and the statut personnel, the subject forms the main corpus of the sharî'a, the Muslim sacred law. Because of its continually evolving legal doctrine, and the tangible material benefits it has provided the Islamic community, unlike other matters of the sharî'a vakıf has been of practical significance to the lives of most Muslims. This is apparent from the fact that the revenue from vakıf landed endowments was accountable for the support of every form of religious, educational, and charitable institution in Islam; in fine, vakıf was responsible for making the Islamic world much the way it was. The decline of this institution in the nineteenth century led to the general material impoverishment of Islam that is witnessed today. In order to have an understanding of Islam and an awareness of the kind of oikoumene this religion has shaped and created, it is essential to have a knowledge of religious foundations and the effect they had on Islamic society.

In spite of the central rôle played by religious foundations throughout Islamic history, as a field of study the subject is a vast canvas that has barely been touched. Little research has been done in the field thus far, notwithstanding the fact that the Ottoman archives in İstanbul contain a wealth of documents in Arabic and Ottoman for all periods of Ottoman history. Most of the studies which have been done are monographs that concentrate on specific aspects of religious foundations; apart from the work of Hüseyin Hâtemî, no comprehensive history of vakıf as a legal institution has been done.

What has been lacking in the field of Islamic studies until now is an introductory survey that presents an overview of the subject from the beginning of Islam to the twentieth century. The present study provides such an overview with reference to the area and era of its main development and use — the Ottoman empire; the development of evkaf is discussed in a topical fashion, with attention being given to the most significant changes in its juridical evolution during the major historical periods of Islam.

February 1984 John Robert Barnes

LIST OF SOURCES

Unpublished Document Collections in the Başbakanlık Arşivi (Archives of the Prime Ministry), İstanbul

Bâb-ı âli Evrak Odası, Evkaf Defteri No. 124 (Evkaf Register No. 124 from the Document Office, Sublime Porte)

Cevdet Evkaf tasnıfı (Documents from the Cevdet Evkaf Collection)

İradeler Dahiliye (Decrees for Internal Affairs)

İradeler Meclis-i mahsus (Special Cabinet Decrees)

İradeler Meclis-i vâlâ (High Cabinet Decrees)

İradeler Şurayı Devlet (Council of State Decrees)

Maliyeden Müdevver (Ministry of Finance Records)

Meclis-i Tanzimat Defteri (Register of the Tanzimat Council)

Unpublished Official Documents, Great Britain Foreign Office Archives, Public Record Office, London. Despatches from the series F.O. 195 and F.O. 198

A NOTE ON THE TRANSCRIPTION

Attempting a single form of transcription for Arabic and Turkish terms is awkward and confusing, and so two kinds of orthography have been used here. Arabic has been transcribed according to the system used in the *Encyclopedia of Islam*, while Ottoman and Turkish follow modern Turkish spelling which uses the Latin alphabet. In modern Turkish "ç" is the equivalent of "ch," "ş" of "sh," and "c" of "j" in English. In addition, modern Turkish uses an undotted "i" which is similar to the sound of the second syllable in *origin*; a soft "g" (ğ) which serves to lengthen the preceding vowel; and the umlauted vowels "ö" and "ü" which are pronounced as in German.

A WORD ON THE NOTES

In the footnotes for the archival documents cited, in addition to the classification, the document number, and the Arabic and Christian dates, the hulâsa or summary of the document is reproduced in modern Turkish transcription from the Ottoman. These summaries which are given in the catalogues have a vocabulary and a style which are peculiarly their own for every subject covered. Not only do the documents

themselves, but the hulâsas as well entail a number of paleographical difficulties, and they require some getting used to. They are presented here with the hope that they may be of some benefit to scholars who are interested in acquainting themselves with archival material of this kind. An advance knowledge of their character would greatly facilitate any research undertaken on this subject in the Archives of the Prime Ministry.

The translation of documents in substance and form closely adheres to the chancery style peculiar to Ottoman official correspondence of the nineteenth century.
Abbreviations of the Hicrî dates in the notes represent the months of the Muslim calendar accordingly:

M Muharrem
S Safer
RA Rebiyülevvel
R Rebiyülâhir
CA Cemaziyelevvel
C Cemaziyelâhir
B Receb
Ş Şaban
N Ramazan
L Şevval
ZA Zilkade
Z Zilhicce

INTRODUCTION

A literal definition of vakıf is a causing a thing to stop and stand still. The second meaning, and the one most commonly given, is simply pious foundations. Although they are technically correct, neither of these descriptions is an adequate definition for anyone unacquainted with the subject. It is, perhaps, better to say by way of introduction that religious foundations in Islam is equivalent to church property in the West.

It is important to note that actual wealth was not derived from possessing lands or buildings, whose value would increase over time, or in their purchase and sale, the manner in which real estate is commonly understood to have value; rather, the principal source of evkaf income came from rents. Buildings or lands that were purchased and set aside as a religious endowment by some wealthy benefactor were rented for fixed periods of time for their use and cultivation, and the yield in revenue was given to the object of the endowment. This is to say that vakıf property is revenue-bearing property, which belongs to the religious or charitable institution for which it was created. And it belonged to that institution in perpetuity. As such, it could never be alienated, for any transfer of ownership would mean a loss of income for the institution. The quality of untouchability or inalienability is the basic characteristic of all evkaf property; and this is why such property is called, quite aptly, mortmain. The term literally means the Dead Hand, an English equivalent that is employed less often than the expression in French.

With a definition of mortmain — the transfer of property to a pious or charitable organization in perpetuity — the description of evkaf has come full circle; for to make a property inalienable is to take it out of the sphere of commercial transaction, that of purchase and sale, and to cause it to stop and stand still — the very definition that was first given.

A continual source of income from the rents of immovables, whether from house property or land, was precisely the kind of long-term economic security that was needed for any religious or charitable institution, whether that institution was a mosque or a dervish convent, a hospice or khan, a soupkitchen or a caravansaray. For not only did the construction and maintenance of the buildings themselves require a continual source of revenue over the centuries, but so did the staffs of these institutions, and frequently that sector of the Muslim community they were intended to serve.

The Ottomans were responsible for fostering the spread of religious foundations on an ambitious and massive scale. This was accomplished through alienating a part of the public revenue by assigning lands and entire villages for the support of religious foundations. Although not without precedent, — the Selcuks of Rum had granted the tax revenue from the public domain for their own foundations, the degree to which this was done under the Ottomans made the practice a particularly Ottoman activity. The assignment of crown lands and other forms of public revenue by the sultan on a provisional long-term lease for the creation and support of religious and eleemosynary institutions illustrates the essentially imperial character of religious foundations in the Ottoman Empire; it is fair to say that the history of religious foundations under the Ottomans is the history of evkaf-ı hümayûn, that is, imperial evkaf. The term evkaf-ı hümayûn is employed throughout the study in this wider sense, as opposed to the more restricted meaning, which denotes evkaf founded by individual sultans and members of the imperial family.

The discussion of evkaf opens with the question of origins, a problem which has been addressed by a number of European scholars during the course of the nineteenth century. Apart from enumerating a number of possible legal archetypes which have been advanced as the origin of the institution, the first chapter describes the evolution of evkaf within the developing corpus of Islamic jurisprudence. The principles of Hanefî doctrine have been particularly stressed, because that doctrine was responsible for formulating the classical definition of vakıf in Islamic law — a legacy to which every period in Islamic history fell heir, and a basis upon which the Ottomans would create their own unique conception of religious foundations.

The second chapter deals with the complex and problematic question of private ownership of conquered lands in Islam, and the nature of the mîrî land régime as developed in the Ottoman Empire. Much of the legislation created by the Ottomans for evkaf directly contravened classical canons that had been formulated during the first centuries of Islam; but their legal theory, in spite of its innovation and irregularity, was to prove beneficial for the spread of religious foundations, and ultimately advantageous to the state because of its quasi-legal and provisional nature.

The problems of decentralization of evkaf administration are then presented. A particular emphasis is given to the rise to virtual absolute power of the Dârüssaade Ağası, the Chief Black Eunuch of the Palace, in all matters relating to evkaf in the seventeenth century, and the general embezzlement and corruption that ensued.

The nadir in evkaf affairs had been reached by the last quarter of the eighteenth century, which nevertheless saw a slow, but fundamental shift of power beginning with Sultan Abdulhamid I, when the sultans gradually began to regain authority over their own evkaf holdings. This reassertion of imperial control over evkaf administration culminated in the reign of Sultan Madmud II at the beginning of the nineteenth century, and assured the ascendancy of the new Ministry for Imperial Evkaf over all other evkaf ministries. During the latter part of Sultan Mahmud II's reign, especially from 1826 to 1839, and for the Tanzimat period of reform that followed, the Evkaf Ministry was responsible for administering virtually all religious foundations throughout the Ottoman Empire.

The operations of this ministry and the effect that it had on the fortunes of religious foundations in Islam is the principal concern of this study. The attempt to control a multitude of foundations, hitherto independently administered, throughout the expanse of the Ottoman dominions was a daring and formidable enterprise, — and one which was undertaken in the name of reform. The degree to which the Ottomans were successful in realizing the dual objectives of administration and reform is a question that is addressed in the final chapters. The conclusions reached contribute in large measure to an understanding of the rôle the Evkaf Ministry played within the frame of the Tanzimat period of reform.

CHAPTER ONE

THE LEGACY OF CLASSICAL ISLAM

The word vakıf (pl. evkaf) is a Turkish rendering of the Arabic mastar wakf. Taken in its literal sense, the Arabic infinitive means to stop, to prevent or restrain. According to Ottoman definition, the word means to prevent the giving and taking possession of a thing so that the substance belongs to God, while its benefits pertain to mankind. Stated more simply, revenue-bearing property is withdrawn from commercial transaction and is made inalienable for some beneficent end; taken out of the condition of private ownership, the property is said to belong to God, and its revenue is assigned for some religious or charitable purpose. In the course of time, the term vakıf has come to signify property that is dedicated rather than the action of dedication.[1]

The process whereby property is devoted as a perpetual trust to some sacred or charitable purpose is the basis of a legal doctrine whose evolution in Islam is far from clear. The question of origins was raised by European scholars in the previous century, but the silence of early sources on the subject has not provided an easy answer to the problem; rather, the lack of evidence has given rise to a number of theories, some of which are rather compelling. But they are not all equally so; thus the problem of origins can be resolved by presenting these views impartially and discussing their relative merits.[2]

Islamic tradition holds, for example, that the practice of vakıf was prevalent in pre-Islamic societies, and that its origin is to be ascribed to the time of the patriarch Abraham. The instances provided as proof of this early origin are drawn from the accounts of the patriarch's life and work. It is related, for example, that Abraham spent the wealth bestowed upon him by God in acts of charity, such as providing for guests and strangers, and provisioning the poor and the destitute. What is more, he served as a source of inspiration for pious men of wealth in creating charitable works which benefitted not only his generation, but his suc-

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[1] Ömer Hilmî, *İthaf ül-ahlâf fi ahkâm ül-evkaf* (İstanbul, 1307/1889), 2-3; Hüseyin Hâtemî, *Önceki ve Bugünkü Türk Hukukunda Vakıf Kurma Muamelesi* (İstanbul, 1969), 39, fn.1.

[2] For a discussion of the early doctrinal development of vakıf, see J. Schacht, "Early Doctrines on Waqf," *60. doğum yılı münasebetiyle Fuad Köprülü Armağanı; Mélanges Fuad Köprülü* (İstanbul, 1953), 443-52. Also consult Köprülü's articles "Vakıf Müessesesi ve Vakıf Vesikalarının tarihî ehemmiyeti," *Vakıflar Dergisi* I (1938), 1-6, and "Vakıf Müessesesinin Hukukî Mahiyeti ve Tarihî Tekâmülü," *Vakıflar Dergisi* II (1942), 1-36.

cessors in perpetuity. The main form an enduring act of benevolence took in these times was the erection of altars, and to Abraham is attributed the creation of the foremost altar in Arabia, the Kaaba at Mekka. He is also accredited with having founded numerous other works in other lands that are known as Halilurrahman evkafı; that is, the religious endowments of Abraham, the Friend of God.[3]

This tradition deserves consideration because it is credible, and because it has been advanced by an Ottoman scholar renowned for his authoritative study on evkaf, the celebrated Ömer Hilmi Efendi. Ömer Hilmi's account generally accords well with the description of Abraham's life found in Genesis: he was a man known for his wealth and piety who, in the course of his migration from the land of Ur to Palestine, erected a number of altars for the sacrificial worship of God. As it is stated in Genesis that he sojourned in Egypt for a time, it is not improbable that he journeyed to Mekka, where he founded an altar that would become the major cult center for all Arabia.[4]

The account is probable, yes; but it is only conjectural. While Abraham was a man of means, there is little evidence in Genesis to suggest that he gave his wealth to strangers and guests beyond the custom expected of a nomadic tribal leader; — and thus no grounds for regarding almsgiving as a unique activity instituted by Abraham. Nor was the erection of altars an unusual activity: there is no reason to believe that they were other than simple constructions, requiring little expenditure of time, effort, and resources for their completion. More, there is no direct literary evidence, outside of Islamic tradition, that Abraham ever ventured to Mekka or created the Kaaba. Interestingly, even pre-Islamic tradition in Arabia does not mention Abraham as the founder of the Kaaba. These traditions, then, are more properly in the realm of belief than historical fact. But it should be borne in mind that even if their historical veracity were granted, such acts as altar building and almsgiving more correctly fall within the realm of individual instances of charity, or sadaka, and not vakıf. There is, in fact, little resemblance between Abraham's acts of charity and the conditions necessary for the creation of a religious foundation in Islam — even as a prototype, however elementary.

It is well known that Islam has based its authority and validity to a great degree on antiquity. Muhammad regarded Islam as simply the continuation of the pure religion of Abraham, which the Jews and the Christians in the course of developing religions of their own had perverted. It

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[3] *Ahkâm ül-evkaf*, 8-9.

[4] Genesis 11.31ff.

is tempting to attribute a fundamental Islamic institution such as vakıf to this ancient origin. The problem nevertheless remains that the evidence is too slight to form an accurate picture of Abraham beyond that of a nomadic tribal leader whose exodus from Ur to the valley of the Hebron occurred sometime during the first centuries of the second millenium B.C.

Similarly, another view maintains that the pagan sanctuaries of pre-Islamic Arabia afforded a model for the institution of vakıf. The notion has been advanced that ownership of landed property belonging to the Kaaba, while it was still a pagan shrine, was given in perpetuity to the temple and its deities. The business of administering the property was carried out by an hereditary caste of priests who guarded the sanctuary.[5] With the coming of Islam, the Kaaba, once a cult object for all Arabia, was transformed into the leading house of God (beytullah) for the early Muslim community. The manner in which it had been endowed and administered was not forgotten, and it was to serve as a model for the support of masdjids, the structures housing the first assemblies of prayer.

This theory entails a number of difficulties, not the least of which is the absence of any legal principle. Research on the Kaaba and other shrines in pre-Islamic Arabia is limited due to the scarcity of direct literary evidence, and thus cannot provide sufficient information on their legal character to provide a meaningful analogy. It is an open question too whether the first masdjids, comprised as they were of a simple open courtyard and sun-dried brick, were in need of landed endowments for their support. The practice of assigning income from land revenue for the maintenance of a major religious edifice did not occur until well into the Umayyad era, toward the close of the seventh century; and when the Umayyad caliphs did so, they were basing themselves on Byzantine, and not pre-Islamic models. The principle of dedicating the income from property for religious ends would have to await the first decades of the 'Abbasid era at any rate for its formulation as doctrine. When this ruling was established by the Hanafî jurist Abu Yûsuf (d. 798), it is doubtful that thoughts of the Kaaba and a pagan priestly caste were uppermost in his mind. The same difficulty is encountered when attempting to

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[5] M. Gaudefroy-Demombynes, *Mahomet* (Paris, 1969), 42-3. His theory is summarized and refuted by Hâtemî, *Vakıf Kurma Muamelesi*, 24. While Al-Shafiî states that there were no vakıfs in existence in the pre-Islamic period, Turkish law historian Ali Himmet Berki is of the opinion that he meant there were no vakıfs "for the poor"; — implying that there were other kinds. Berki agrees with Ömer Hilmî in seeing the founding of the Kaaba by Abraham as the prototype for religious foundations, but nevertheless concludes that, from a legal standpoint, vakıf began with Islam. See A. H. Berki, "Vakıfların Tarihî Mahiyeti, Inkişafı ve Takâmülü, Cemiyet ve Fertlere Sağladığı Faideler," *Vakıflar Dergisi* VI (1965), 9-13.

establish a valid analogy between the institution of vakıf and the Zoroastrian fire temples of Sasanid Persia: details on their legal character are simply lacking.[6]

Somewhat more compellingly, it has been proposed that the origins of vakıf are to be sought in the Roman legal concept of res sacrae, sacred objects. The theory in outline is briefly this. There are two classes of things in the world; one class is under the law of men, while the other is under the jurisdiction of heaven. That which falls under divine law (divini juris) is designated as res sacrae, sacred things, and is consecrated to the gods. Such objects are sacred buildings, as temples; the objects within them, such as statues, vessels, and vestments; and lastly, the lands on which they are situated. As property dedicated to religious ends, res sacrae were taken out of the sphere of normal commercial transaction and were not considered as private property; they were the property of the gods, and belonged to no one (res nullius). Placed in this capacity, they could not be purchased, sold, mortgaged, nor alienated in any fashion; nor could they be burdened with fiscal exactions.[7]

It would appear that the basic legal condition of Roman res sacrae — property consecrated for religious purposes which becomes inalienable — accords well with that of religious foundations in Islam. It does, but only to a point. Upon closer scrutiny, it is evident that res sacrae refer to the religious objects themselves, to buildings, the land on which they are situated, and material things for the cult; they do not refer to revenue-bearing property assigned for their creation and continuous support. Moreover, while vakıf is created by the legal action of an individual, property constituted as res sacrae required the authorization of the Roman state, and could be consecrated only by a statute passed, or by a senatus consultum made for that purpose; no individual could create res sacrae of his own authority. It should also be considered that were sacred buildings (aedes sacrae) to possess patrimony, that property was always administered by the state, and not by individuals.[8]

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[6] R. N. Frye, *The Golden Age of Persia: The Arabs in the East* (New York, 1975), 17. Beyond Frye's statement that Persian fire temples were "similar in many ways" to Islamic vakıf, he does not elaborate.

[7] For the origin of evkaf being attributed to Roman res sacrae, see D. Gatteschi, *Étude sur la propriété foncière, les hypothèques et les Wakfs* (Alexandria, 1896), 284. Res sacrae is defined in W. A. Hunter, *A Systematic and Historical Exposition of Roman Law in the Order of a Code* (London, 1935), 315. Also consult M. Morand, *Études de Droit Musulman Algérien* (Alger, 1910), 244.

[8] Morand, *Études de Droit*, 244-5 for a principal objection to Gatteschi's theory; and Hunter, *Systematic and Historical Exposition*, 315, citing the Institutes of Gaius: "But a sacred thing, it is held, can be made so only by the authority of the Roman people; for it is consecrated by a statute passed, or by a Senatus Consultum made for that purpose." Cf. Institutes of Gaius, Book II, Section 6.

Turning to conditions prevalent during the first Islamic conquests, it has been suggested that vakıf was derived from the Islamic concept of fay', or lands subject to tribute. There was apparently little distinction in pre-Islamic times between fay' and ghanima; both denoted chattels taken as booty after battle, to be divided in fourths or fifths among the victors, with the head of the tribe usually being entitled to the hums, or one-fifth of the total. A precedent had been established however by the Prophet after the conquests of the Banu'l-Nadir, Khaybar and Fadak whereby he appropriated all shares of the fay' and employed them for the good of the Muslim community. It is from this time on that booty was divided according to the discretion of the Prophet.

With the beginning of the Arab conquests of Byzantine and Sasanid territory, lands which came into the possession of the Muslims through unconditional surrender were regarded as fay', in contrast to ghanima which was applied to movables. A problem soon arose regarding the manner in which these conquered lands were to be treated. The question was whether they should, according to pre-Islamic Bedouin custom, be divided as spoils among the victors, or whether the revenue of these fay' lands should be turned over to the state to be assigned as stipends for the army, and as donatives for the good of the Muslim community.

The latter decision prevailed with the precedent established by the caliph 'Umar during an assembly at the Syrian military camp of Jabiyah in 637. It was 'Umar's intention to introduce order into the recently conquered lands of Syria. According to the terms agreed upon among 'Umar, the Companions of the Prophet, and the leaders of the Syrian army, the revenue of the conquered lands would be collected and turned over to the central government, and in return all those who had participated in the campaigns would be enrolled in registers, known as diwans, in order to receive fixed stipends. Thus, instead of the lands being divided among the Muslims and becoming land on which they would settle and pay the ushur tithe, the conquered regions were left in the possession of the original inhabitants, but were subject to kharadj, the land tax paid by non-Muslim subjects.

It is contended that fay' lands annexed to Islam through force of arms (anwatan) were in effect vakıf by virtue of their not being divided, but having their revenue destrained for the good of the entire Muslim community. It was precisely these fay' lands which were to become the prototype for vakıf as it developed throughout the history of Islam.

According to the legal conditions governing vakıf lands, however, this position is untenable, for only lands liable to the ushur, the tithe paid on land by Muslims, could be made vakıf.[9] It was essential that the founder

[9] The theory that vakıf was derived from fay' has been developed by M. Van Bercham

(vâkıf) have outright ownership of the property if it were to be bequeathed as a religious endowment. But fay' lands, to the contrary, were not the private property of Muslims; they were lands annexed by conquest which remained in the possession of non-Muslim subjects. As such, they were liable to the kharadj tribute, which meant that they could not be privately owned, but were held by the state. Given this arrangement, fay' lands could not be alienated for the purpose of creating a religious endowment.[10]

The notion of fay' becoming vakıf is the intellectual construct of a Western scholar who has found the theory beguiling. Muslim scholars have been persuaded, however, by less abstract considerations, and have based their ideas concerning the origins of evkaf on Islamic sacred literature, on the Kur'an and the Traditions of the Prophet. The view most commonly held by Muslims is that while vakıf was unknown in pre-Islamic times, it was instituted through the authorization of Muhammad. According to one tradition, 'Umar had asked the Prophet in what manner he should dispose of his share of land acquired by the partition of Khaybar, and Muhammad replied, "Retain the thing itself and devote its fruits to pious purposes." 'Umar did this with the provision that the land was to be neither sold nor bequeathed, but was to be given as a perpetual sadaka, or charity, to be used for the poor, for relatives, slaves, travelers, and guests, and for the propagation of the faith through force of arms (fî sabil Allah).[11]

While this tradition has often been cited in support of Muhammad's approving the institution of vakıf, nevertheless it was not mentioned by

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in his *La propriété territoriale et l'impôt foncière sous les premières Califes* (Geneva, 1883), 11-12; and by E. Zeys, *Traité élémentaire du droit musulman algérien* II (Alger, 1886), 182. For a refutation, see M. Morand, *Études de Droit*, 243. See also Hâtemî, 106-7.

[10] Hâtemî, 105-6: "If it is considered that there is an essential relation between the procedure of a vakıf endowment and immovables, it will be readily understood what a close relation there is between the system of vakıf and the land order. If private ownership on land were not accepted, or, if it were accepted in an extremely limited sense, then application of the vakıf system would have been very restricted. For example, in Islamic-Turkish law, which is based on principles in Islamic law, we see that private ownership of land was not accepted as a rule for land which had been conquered." Referring to land which had come into the possession of the Muslim community by means of war, Hâtemî notes that the head of state did not have the authority to cause the land to pass into private ownership: "This land could not be sold, or given away, it could not be transferred by means of inheritance, and its being made vakıf was not valid. The authority the chief of state held in his hand was legally only to rent in the name of the beyt-ul mal."

[11] W. Heffening, "Waqf," *Encyclopedia of Islam* IV, 1097: "The fukaha' trace the institution to the Prophet, although there is no evidence for this in the Kur'an." See M. Fuad Köprülü, "Vakıf Müessesesi," *VD* II, 3-4, and Hâtemî, 29-38 for a discussion on the various traditions relating to vakıf originating from the counsel of Muhammad. Cf. as well Marcel Morand, *Études de Droit*, 239, and L. Milliot, *Introduction à l'Étude du Droit Musulman* (Paris, 1953), 543.

the leading jurists of the time, Abu Hanifa and Abu Yûsuf.[12] Aside from the few traditions relating to vakıf being open to question as to their authenticity, it is also evident that no single reference to the term is made in the Kur'an. This objection has been countered by the claim that the basis for vakıf is in the practice of sadaka, the act of almsgiving incumbent on all Muslims, and that numerous references to sadaka are given in the surahs. Be that as it may, the simple act of almsgiving has little to do with the legal principles on which the creation of a religious endowment is founded. Had vakıf been an extension of the practice of sadaka, it is difficult to understand why the institution met with such vociferous opposition from the early jurisconsults, most notably from Abu Hanifa himself, the founder of the Hanefî school of law.[13]

Abu Hanifa's qualifications for vakıf set stringent limits on charitable endowments with the intention of curtailing their development. He restricted the creation of evkaf to two conditions: in the first instance, vakıf was no more than a sadaka, a charitable gift, which was valid only during the lifetime of the founder as a loan to a determined beneficiary, — a loan which was always revocable. The second admissable instance was a vakıf which took effect after the death of the founder, in which case it was no more than a testamentary gift. As such it accorded with the Kur'anic rules of legacy where only one-third of the estate could be bequeathed. This kind of vakıf would not, therefore, be able to modify the legal order of succession defined in the Kur'an. What this meant was that the conditions set down by Abu Hanifa for the validity of vakıf were tantamount to its nullification.[14] In contrast to Abu Hanifa's position, his disciple Abu Yûsuf abandoned his negative line of thinking, and proceeded to develop a system of legal doctrine which has become, ironically, the Hanefî definition of vakıf, a liberal interpretation of principles that has prevailed in practice throughout the Muslim world.

It was Abu Yûsuf who established the fundamental doctrine that a vakıf was only valid if it were irrevocable and made in perpetuity. This provision is the main characteristic of the Hanefî position. Another legal precedent established by Abu Yûsuf was admitting the ability of the founder to name himself beneficiary of the endowment during his lifetime.

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[12] Marcel Morand, 240; and compare the remarks of Köprülü, "Vakıf Müessesesi," *VD* II, 4.

[13] Heffening, "Waqf," *Encyclopedia of Islam* IV, 1097; Hâtemî, 25; Milliot, *Introduction*, 543; and Köprülü, "Vakıf Müessesesi," 3.

[14] Milliot, *Introduction*, 554. On the doctrine of irrevocability established by Abu Yûsuf, see Bahaeddin Yediyıldız, "Institution du Vaqf au XVIII[e] Siècle en Turquie; Étude socio-historique," unpublished PhD dissertation, Sorbonne, University of Paris (Paris, 1975), 7; M. Belin, "Étude sur la propriété foncière en pays musulmans, et spécialement en Turquie (rite Hanéfite)," *Journal asiatique*, series V, 18-19 (1861-2), 89.

He had, moreover, the right to designate any of his heirs as beneficiaries until the extinction of his line, at which time the vakıf reverted to the benefit of the poor. This type of vakıf is known as vakf-ı âdi or vakf-ı ehlî; that is, customary or family vakıf. The founder was not limited to donating one-third of his estate, the maximum amount allowed for legacies and testamentary gifts prescribed in the Kur'an. He could, rather, bequeath his entire estate, having the right to designate anyone he chose as beneficiary — including any member of his male progeny to the exclusion of the female line. Admission of this last precedent naturally abrogated the regulation on inheritance set forth in the Kur'an. And this was precisely what Abu Hanifa and other jurists were objecting to.[15]

As the principles expounded by Abu Yûsuf were in direct contradiction to the views of his mentor, it may well be surmised where this dramatic point of departure received its stimulus. It is related that Abu Yûsuf diverged from the doctrine of Abu Hanifa during a pilgrimage to Mekka when he saw numerous vakıfs everywhere in evidence at Medina. This tale may be no more than a fanciful explanation for Abu Yûsuf's apparent volte face on the subject of vakıf; he was obviously aware of the development of religious endowments in his time, and was not in need of a pilgrimage to Mekka to become cognizant of the fact.[16] It is possible that he was simply continuing the line of thinking created by the Malikî school and certain traditions; but this explanation is open to question in light of the fact that Abu Yûsuf's views on vakıf differed sharply from those of Malik not only in degree, but also in kind. It is more likely that he looked for inspiration elsewhere.

Witnessing religious endowments that were everywhere prevalent in the latter half of the eighth century, Abu Yûsuf saw in them the triumph of pre-Islamic tradition over the Kur'anic prescriptions on inheritance, and the natural desire of a Muslim to leave his patrimony in tact to his favored descendants. He was thus obliged to justify in legal terms an accomplished fact.

Abu Yûsuf did not have to look far to find a fully developed legal system which would give sanction to the desires of the Islamic community. An institution everywhere present to the eye in the conquered territories of Egypt, Syria, and Palestine was the Byzantine system of piae

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[15] On the ability of the vâkıf founder to appoint himself administrator and first beneficiary according to the principles of Abu Yûsuf, see Hâtemî, 132, and Köprülü, "Vakıf Müessesesi," 5-6. The contrast and contradiction between Hanefî principles on evkaf formulated by Abu Yûsuf and the Kur'anic laws of inheritance is well discussed by M. Morand, *Étude de Droit*, 259 and 264, and Köprülü, "Vakıf Müessesesi," 4. See also J. Schacht, "Early Doctrines on Waqf," 451-2.

[16] A point that is well taken by Schacht; see his "Early Doctrines," 452.

causae, pious foundations. Byzantine charitable endowments in their manifold forms doubtless offered to the Muslims a model for emulation, if only by way of example. The Byzantines had endowed a great variety of religious and eleemosynary institutions such as churches, oratories, monasteries, schools, hospitals, inns for travelers, almshouses for the poor and the aged, orphanages, and charitable trusts for the relief of the poor, widows, free-born girls, and for the ransoming of captives.[17]

The list is hardly exhaustive; but a causal relationship between piae causae and vakıf will less be established by enumerating the similarities of purposes to which they were assigned than in describing the striking analogy between their juristic principles.

The creation of piae causae was the legal act of an individual which did not require the authorization of either the church or the state to be binding and valid. Further, the property of the donor was assigned in perpetuity and could not be alienated. The character of this inalienability was attributed to the ownership of all property so devoted being vested in God alone. Possessed by God, property thus dedicated could never again enter into the normal commercial transactions of purchase and sale.[18]

According to the legal code of Justinian, the founder of a charitable endowment was free to appoint whomever he chose as beneficiary of the estate. He possessed the right, moreover, to designate both himself and his heirs as the initial recipients of the dedicated property. The patrimony so bequeathed could continue to be inherited by his descendants until the extinction of his line, at which time the property reverted to the ultimate beneficiaries, usually the poor. There was no limitation set on the amount of wealth assigned to a charitable cause: the donor was at liberty to dispose of his entire estate, without any restraining conditions that a percentage of the patrimony should be withheld for equitable distribution among all immediate heirs. It was more than just coincidence that the abovementioned conditions conformed exactly to the Hanefî prescriptions governing family vakıf.[19]

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[17] P. W. Duff, *Personality in Roman Private Law* (Cambridge, 1938), 173. For a detailed discussion of charitable foundations in Byzantium, see pages 168-205. A compelling description of the legal nature of piae causae is given by R. Saleilles in his "Les Piae Causae dans le Droit de Justinien," *Mélanges Gérardin* (Paris, 1907), 513-51. Saleilles advances the view that piae causae possessed a legal personality; this is conclusively refuted by Duff, however. See W. W. Buckland, *A Text-book on Roman Law from Augustus to Justinian* (Cambridge, 1921), 181; and E. Çuq, *Manuel des Institutions Juridiques des Romains* (Paris, 1917), 116-17.

[18] See Duff, *Personality in Roman Private Law*, 175, 184 and 187; Marcel Morand, 251; and Köprülü, "Vakıf Müessesesi," 8.

[19] Marcel Morand, 250-251; Köprülü, "Vakıf Müessesesi," 8.

In the appointment of administrators, the founder was free to appoint anyone who appeared suitable, independent of the nomination or direction of the church. The only instance where the bishop had the right to interfere was when the donor failed to appoint an administrator, or when those entrusted with the office failed, after two warnings, to properly administer the trust. In such cases the bishop had the right to transfer the administration to someone else, more often than not to a member of the church.[20]

It is clear that property dedicated as piae causae did not consist of liquid assets or movables, but of immovable holdings such as landed or roofed property. If immovable property were bequeathed, either the administrator or the church sold it for the purchase of immovables in order to provide for the foundation a perpetual source of income from the usufruct or revenue.[21]

Piae causae anticipated the same legal difficulty that vakıf was to encounter. In designating the poor, the sick, orphans and captives as beneficiaries, the charitable gift was bequeathed to an anonymous and ever-changing collectivity. Roman and Byzantine law forbade leaving testamentary gifts to incertae personae, unknown persons, for they possessed no legal identity. In the case of charitable foundations, however, legislation was provided in the law code of Justinian that exempted the indeterminate poor from this principle; and for no other reason, it seems, than to facilitate the development of these endowments.[22]

Malik ibn Anas had been the first jurist to recognize the validity of a vakıf being made in favor of unknown persons. He allowed for the assignment of a vakıf to a man and his indeterminate progeny, which reverted to the next of kin of the original donor once the line of the beneficiaries had died out. This kind of vakıf was known as sadaka-ı mevkufe, that is, a temporary or reversible sadaka. Abu Hanifa was not in agreement with this doctrinal position of the Medinese school. The Malikî concept of a reversible sadaka was not acceptable to his thinking because, like Roman and Byzantine jurists, he could not invision a bequest being made in favor of unknown persons, — which applied as well

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[20] Marcel Morand, 251; and Duff, *Personality in Roman Private Law*, 184.

[21] Duff, 183 on the necessity of converting movable property to immovables, or revenue-bearing property; see page 189 on the rule that the poor could be instituted as heirs: "But it is certain that the captives and the poor could be instituted as heirs; the rule against institution of *incertae personae*, which was so long maintained against towns, and always against secular colleges, was broken for them by Justinian."

[22] Duff, 189; Schacht, "Early Doctrines on Waqf," 444-46.

to the indeterminate poor. He was on sure ground in stressing that incertae personae were invalid as legal entities.[23]

But Abu Yûsuf, like Justinian, was less concerned with the niceties of legal reasoning, and declared for the legality of instituting the poor as proper beneficiaries, — even though his decision ran counter to both the spirit and the letter of current legal thinking. Had he upheld his mentor's ruling in the matter, the development of religious foundations in Islam would surely have been arrested.

Piae causae were also to encounter another legal problem in that they were in a very ambiguous position in relation to the principles of Byzantine jurisprudence. In Roman law, a juridical capacity that was recognized for Roman citizens as individuals was extended to collectivities of persons such as collegia, corpora, and towns. Such an extension of rights was not too difficult to conceive of, but Roman jurisconsuls, never known for their theoretical speculation, could not accord a legal personality to such abstract concepts as charitable foundations. In making a testamentary gift, the donor had to transfer to someone the ownership of the property bequeathed, he had to transfer it to an actual person or persons, and not to a legal fiction. A charitable endowment such as a school or a public bath could not be given to its undetermined and ever-changing beneficiaries; it was therefore assigned to an individual or individuals who were entrusted with its administration. While the endowment was assigned to them, they were not the beneficiaries, and they could not be said to own the charitable foundation or its revenue; and for this reason the bequest was given to them as a legatum sub modo, as an indirect legacy.[24]

The situation did not change with the adoption of Christianity as the state religion of the Roman Empire. Piae causae of themselves did not possess a legal personality, and this is why ownership was said to have been invested in the mystical person of Christ and his church. From a legal standpoint, it was not a very satisfactory explanation, for "persons who can never be in the wrong are useless in a court of law."[25] It was, nevertheless, the only solution to an otherwise insoluble problem.

A strong case has been made that juridical capacity and a legal personality lay with the administrator, who exercised full authority over the pious foundation and its income. Those administrators who acted as executors for the revenue of property instituted for the relief of the poor and

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[23] Schacht, "Early Doctrines on Waqf," 447.

[24] Çuq, *Manuel des Institutions*, 115; Duff, 'The Charitable Foundations of Byzantium," *Cambridge Legal Essays* (Cambridge, 1926), 83ff; Duff, *Personality in Roman Private Law*, 168ff.

[25] Duff, "Charitable Foundations of Byzantium," 87.

the ransoming of captives were capable of taking a variety of legal action, such as alienating and pledging land, receiving gifts, borrowing, granting emphyteusis or extended leases, claiming legacies, and suing and being sued for debts. The powers of the administrator were therefore considerable, and it has been claimed that if he were not owner of the endowment in actual fact, he nevertheless acted like one. Doubtless, in almost every respect he did, — save one. Actual ownership was not given to him, but to the beneficiaries in whose name he exercised their legal rights.[26]

As a legal institution, vakıf was borrowed from the principles governing piae causae, principles which had been set forth in the time of Justinian in the *Corpus juris civilis*, the comprehensive code of Roman and early Byzantine law. Islamic jurists were to encounter the same difficulty in vesting religious foundations with a legal personality. The problem, unsurprisingly, was resolved in precisely the same manner. The ownership of property dedicated to eleemosynary ends could be possessed by no one, but was given to God, and the fruits of its revenue were assigned to aid mankind. This explains the fact that the usufruct or revenue from landed endowments, and not the corpus of the property itself, was given to beneficiaries or the object endowed.[27]

By way of conclusion, it must be said that there is no direct literary evidence that a conscious grafting occurred between Byzantine and Islamic religious foundations. Nonetheless, the analogy between the legal conditions for creating piae causae and the principles set forth by Abu Yûsuf offers convincing argument that such a borrowing had in fact occurred.

It has been noted that the essential feature of family vakıf, the ability to bequeath the revenue of an entire patrimony to any heir to the exclusion of female descendants, directly contravened the Kur'anic rules on inheritance. The adoption of this principle meant a victory for pre-Islamic custom, and sanctioned the testator's desire to leave his estate intact to heirs through the male line. Undoubtedly, as an additional element, there was the desire to avoid arbitrary confiscation by the state. High officials who fell out of imperial favor under the 'Abbasids had the habit of losing their fortunes as well as their lives. By dedicating his estate

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[26] Duff, "Charitable Foundations," 97-8; and R. Saleilles, "Les Piae Causae dans le droit de Justinien," 513ff.

[27] Hâtemî, 98-9 makes the distinction between ayn and menfaatler; that is, between the substance of a property and its fruits or profits. Only the substance of the property itself, which was in the outright ownership of the founder, could be made vakıf; the creation of a vakıf from the revenue of a property was invalid.

as a family vakıf, a government official could place his property in a condition of untouchability for the enjoyment of his family and his posterity. This must have been a major consideration in the development of Byzantine legislation regarding piae causae, and was a contributing factor that must have influenced Abu Yûsuf's thinking as well.

Abu Yûsuf's thought represents an intermediate stage in the development of Islamic jurisprudence. During the first century of Islam, there was no corpus of Islamic law to which the first jurists could refer in making legal decisions; outside of the Kur'an and the Sunna, the reported sayings and deeds of the Prophet, Islamic jurisprudence as a body of law did not exist. As Kur'anic prescriptions covered only a narrow field of civil legislation, and virtually nothing of criminal law, it was only natural that pre-Islamic social custom and practice were drawn upon as a source of law.[28]

One of the first attempts to record the heterogenous mass of social custom as it was practiced in Medina was made by Malik ibn Anas, the founder of the Malikî school of law. Malik's work, the *Kitab al-Muwatta'* represents the earliest surviving corpus of Islamic jurisprudence. The compilation was little more than what Malik perceived to be as the idjma, or consensus of the Medinan community on social practice and legal norms; as such it was an uncritical collection of the costumary law of Medina that was current in his time. His statements on vakıf, which can be traced through the *al-Mudawwana al-Kubra* of Sahnun (d. 240/854), are less formulations of legal principles than a description of actual Medinese practice. A striking Medinese custom that Malik recorded was the practice of sadaka-ı mevkufe, a reversible sadaka.[29]

A logical corollary to this absence of a systematized body of doctrine was the need to exercise independent judgment on legal points which lacked instances of previous judicial ruling. The decisions of the individual jurists were known as ra'y, or opinion, and were analogous to the opinio prudentium of Roman law. Independent decision making by the first Muslim jurists characterized much of the Umayyad period, and was the method most often resorted to for deriving legal principles. In addition to relying on idjma, consensus, Malik exercised his own judgment on ambiguous legal questions to which the Kur'an, the Sunna, and pre-Islamic custom could provide no answer. This application of reason in establishing juridical precedent reached its apogee in the systematic thinking of Abu Hanifa (d. 767). Abu Hanifa's reliance on his own

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[28] See J. Schacht, "Fikh," *Encyclopedia of Islam*, new edition, II, 886-7; and J. Schacht, "Malik B. Anas," *Encyclopedia of Islam* III, 206.

[29] Schacht, "Malik B. Anas," 207; Schacht, 'Early Doctrines on Waqf," 443; and Schacht, "Fikh," *Encyclopedia of Islam*, new edition, II, 886-7.

reasoning powers was carried to such lengths that he frequently ignored the practice and consensus of the Muslim community. A dramatic instance of this is his categorical abrogation of vakıf as it was practiced in his day because it was not in accord with the rigorous logic of his thinking.[30]

The free exercise of individual judgment was the result of circumstances which required it, and was therefore the product of its time. Ra'y, or reasoning, as a source of legal knowledge soon came to be superseded with the development of the science of hadith, the traditions regarding the sayings and deeds of the Prophet; justification for legal precedent came to be based on the authority of the Prophet himself, and not on the authority and discretionary powers of any jurist, however learned.

This second source for deriving legal principle had arisen in opposition to the belief that jurists had the right to reason for themselves, and establish juridical doctrine by this method. Likewise, the sunna of local tradition and social custom gradually came to be replaced by the higher authority of the Sunna of the Prophet. It should be noted, however, that many Traditions regarding the reported sayings and actions of the Prophet were used to justify existing social practice; thus they represented an alternative means to the use of reason for achieving the same ends — the legal sanction of existing pre-Islamic social customs and their incorporation into the ever increasing body of Islamic law.[31]

The disciples of Abu Hanifa, Abu Yûsuf and Al-Shaibanî, represent an intermediate stage in the expansion of Islamic law: the methods they used in establishing precedent in their legal rulings were midway between the free use of reason and total reliance on the Traditions. They frequently resorted to reason by way of kiyas, or analogical deduction, and, like their contemporary Al-Shafiî, they exhibited an increasing tendency to rely on the authority of the hadiths. While Abu Yûsuf and Al-Shaibanî attribute much of their thinking to Abu Hanifa, they diverged from many of his doctrines. It was simply a legal convention of the time for a scholar to readily assign the origin of his thought to his master. It is ironic that the views of Abu Yûsuf and Al-Shaibanî have come to be known as the recognized doctrines of the Hanifî school, since they diverged so markedly from the thinking of the school's eponymous founder.[32]

This dichotomy of thought is most apparent in Abu Yûsuf's approach to the problem of vakıf. It is known that Abu Yûsuf approved in principle

[30] Schacht, "Abu Hanifa Al-Nu'man," *Encyclopedia of Islam*, new edition, I, 123-4.
[31] N. J. Coulson, *A History of Islamic Law* (Edinburgh, 1964), 52.
[32] Schacht, "Fikh," 888.

of retaining pre-Islamic institutions. An example of this tendency can be seen in a passage of *Futuh al-Buldan* (The Conquest of the Lands) by the noted historian Al-Baladhuri: "Abu Yusuf held that if there exists in a country an ancient, non-Arab sunna which Islam has neither changed nor abolished, and people complain to the Caliph that it causes them hardship, he is not entitled to change it ...."[33] The respect and recognition Abu Yûsuf accorded to pre-Islamic custom and practice in conquered regions is indicative of how the principles of Roman Byzantine legislation governing religious foundations must have entered into his thinking, and consequently, into the corpus of Hanefî law.

By the time of Ahmad ibn Hanbal (d. 855), the founder of the Hanbalî school of jurisprudence, the authority of hadiths had entirely replaced that of reason and analogical deduction, ra'y and kiyas. Ahmad ibn Hanbal's legal doctrines are a testament to the change: they are based almost exclusively on the methodology of hadith. For the Hanbalîs, the authority of the Traditions completely overrode considerations based on legal reasoning, — even in cases where the Traditions were of weak authority.[34]

The death of Ahmad ibn Hanbal in 855 A.D. marked the supremacy of Traditions as the main usul al-fikh, as the principal source of Islamic law; from the mid-ninth century on, the orthodox schools of law came to share the view of the Traditionists and Al-Shafiî that the hadiths concerning the sayings and deeds of the Prophet were the only evidence of sunna, or established precedent. Dating from this time, the understanding which came to be accepted was that only the great thinkers of the past possessed the right to exercise idjtihad, independent reasoning in the law. The mid-ninth century was a watershed for Islamic jurisprudence; it was an era which witnessed an unquestioning acceptance of the four schools of Islamic law, and the closing of the door of idjtihad for all time.[35]

The import this historical evolution of Islamic law had for the development of vakıf was considerable. The absence of any corpus of law in the first century of Islam permitted the tolerance and acceptance of many pre-Islamic customs and practices in Arabia and in the conquered provinces. The sunna of local tradition, as in Medina, was codified as the consensus of the region's Muslim community, and this consensus served as legal principle. Thus Malik had recognized the Medinese practice of giving charitable legacies to anonymous collectivities such as habs fî sabil

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[33] Schacht, "Fikh," 887.

[34] H. Loust, "Ahmad B. Hanbal," *Encyclopedia of Islam*, new edition II, 276; Coulson, *History of Islamic Law*, 89-90.

[35] J. Schacht, "Fikh," 890.

Allah, or contributions to Muslims engaged in holy war, and charitable gifts bequeathed to the indeterminate poor. Malik recognized as well the practice of sadaka-ı mevkufe, the provisional vakıf which reverted to the donor's heirs upon the extinction of the original beneficiary's line. Abu Yûsuf's use of reasoning by analogy and his acceptance of the sunna of local tradition facilitated the establishment of family vakıf, a practice born of communal custom and the desire to continue pre-Islamic convention regarding the division of inheritance.[36] Ahmad ibn Hanbal's reliance on Traditions was not just a conservative trend in the development of Islamic law, but the finalising of legal precedent and the culmination of Muslim jurisprudence as an unfolding dialectic. After his time, there were no additions to the corpus of Islamic law: any new precedent was regarded as bida, or innovation, and equated with heresy. As for evkaf, its principles were to remain unmodified until the sixteenth century, when the legislation of the Ottoman jurisconsult Ebussuud placed vakıf legal theory on a new foundation.

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[36] J. Schacht, "Early Doctrines on Waqf," 447; and M. F. Köprülü, "Vakıf Müessesesi," 4.

CHAPTER TWO

THE MÎRÎ LAND REGIME AND THE NATURE OF OTTOMAN EVKAF

There has been some controversy in this and the previous century whether private ownership of conquered land was ever admitted in Islam. One position, based on classic legal doctrine formed by the first jurists, holds that land within the Islamic dominions falls into two categories, according to the nature of its revenue: namely, 'ushur lands, which are the full property of Muslims and subject to a religious tithe, and kharâdj lands that are conquered territories subject to a tribute. Held in trust by the imâm, who is the head of state, kharâdj lands become res extra commercium; removed from the commercial transactions of purchase and sale, they are res nullius, the property of no one, and their revenue is to be expended in the interests of the Islamic community. According to this theory, the lands are fay', spoils that fall to the victors; but this booty is not to be divided among them, rather, it is immobilised and made vakıf for all Muslims. The subject population is allowed the manfa'a, or use of the land only, which is given back to them by way of a loan. All conquered territory is kharâdj, whereas landed property within Arabia is 'ushur, and it is only this region that is mulk, or freehold that is in the full rightful possession of Muslims.[1]

This theory has been criticised on a number of grounds, the strongest objection claiming that it is idle to contend that land tenure has followed but one single canon law throughout the history of Islam. Legislation affecting land evolved according to the exigencies of time and circumstance, and was never continually the same. The theory of fay' is untenable because the early jurists had conflicting opinions on how conquered land should be treated, and these various notions provided the imâm with not just one, but several alternatives in dealing with tributary lands.

Apart from there being a general lack of agreement among the four schools of Islamic jurisprudence on how to treat land that has come into possession by force of arms, Abu Hanifa himself accepts a number of alternatives. The land can either be treated as ganima, and divided among the Muslim warriors as their private possession, whence it

[1] This is the opinion of M. Worms, expressed in his *Recherches sur la constitution de la propriété territoriale dans les pays musulmans*, Paris, 1844; the study originally appeared in *Journal asiatique*, années 1842-44.

becomes subject to the 'ushur tithe; or, it remains in the hands of the subject population as their own property, but subject to the kharâdj; or it is tributary to the kharâdj and made fay' for the entire Muslim umma, and the peasantry work the land as renters for the state. Consequently it was not inevitable that the imâm arrest conquered lands and their revenue for the general interest; sequestering lands won by the sword was but one of several options open to him.

Abu Hanifa's disciple, Abu Yûsuf, describes lands which have come into the possession of Muslims by unconditional surrender or treaty of peace as lands which remain in the private ownership of the subject population. In this case, the people are liable to the kharâdj tribute, but retain their lands as mulk, just as their other property, which they are free to alienate in any fashion, whether by sale, inheritance, testamentary gift, or vakıf.

In addition to the lands of non-Muslims subject to peace agreement, there are those lands within kharâdj territory which are assigned to private individuals as tamlik by the imâm. These landed estates are held in freehold by patent from the crown; known originally under the appelation of qata'i, they are given with the right of full ownership to Muslims, who pay only the 'ushur tithe on them. The right of the head of state to alienate tributary lands as dominium is the most persuasive evidence advanced that mulk existed in conquered territory.

Equally compelling is the obvious fact that vakıf endowments have always been found present throughout tribute lands. Since it is a necessary and fundamental condition that lands dedicated for some pious object be in the absolute ownership of the founder, it would be impossible for these religious foundations to exist if private property were not recognized within kharâdj territory.

Further, it should be considered as well that conquered lands which are in the vicinity of cities and towns and those adjacent to villages are in the full possession of their owners, as they are held to be an immediate extension of their house property.[2] The list, then, is impressive; it would ap-

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[2] Gatteschi has responded to Worms' position by questioning the premise that there was no private property on conquered lands made kharâdj. He produces a number of exceptions, noted by Belin, such as kharâdj lands granted as mulk by the state, lands which retain the right of ownership under conditions of peaceful submission, and lands situated in the immediate proximity of towns, cities, and villages, up to half a dönüm, or one-eighth of an acre. See D. Gatteschi, *Real Property and Wakf According to Ottoman Law* (London, 1884), 11-18. Cf. as well M. Belin, *Étude sur la propriété foncière en pays musulmans, et spécialement en Turquie (rite Hanéfite)*, Paris, 1862, reprinted from *Journal asiatique*, series v: 18-19 (1861-62). Köprülü objects to the Worms thesis because he views it as an extension of the claim of MM. Zeys and Van Berchem that vakıf arose from the immobilization of conquered lands in the name of the bayt al-mal: M. Fuad Köprülü, "Vakıf müessesesinin hukukî mahiyeti ve tarihî tekâmülü," *Vakıflar Dergisi* (Ankara, 1942), 6-7.

pear that mulk had always existed in principle as well as in fact within kharâdj lands, and recognition of this actual condition can be found in legal treatises from the earliest jurists to the Ottoman land code of the mid-nineteenth century.

Criticism of the view that tributary lands were the sole possession of the state is quite correct in insisting that the land regime in Islam cannot be understood by legal opinion alone, but by actual historical conditions. But once private ownership on kharâdj land is admitted, a serious problem arises: for, in not admitting of any principle other than adaptability to changing circumstances, this position does not provide a very satisfactory historical explanation; to say that land tenure is a rich and variegated pattern in the tapestry of Islam is to say little, and hardly resolves the inconsistencies and contradictions that remain. Given this understanding, the problem of land tenure should be reconsidered in order to form an accurate picture of how the land regime developed throughout the course of Islam.

When 'Umar I went to the Arab encampment of Jabiyah in the Jalwan to determine the fate of Syria and its inhabitants, it is true that several options lay open to him. At his discretion, the land and the people could have been divided among the muqatila, the land becoming Muslim property liable to the 'ushur, while the inhabitants could become enslaved, or tied to the land and made serfs. The other alternative was to retain the population in possession of their lands, but subject them to the kharâdj as tribute. The third possibility was to declare these lands fay' for all Muslims to be held in perpetual trust. After some reflection, 'Umar decided for the last option, over the vociferous opposition of Bilâl and other companions who wanted the land divided; his reason for doing so was stated simply: if he were to divide the land and the people among a few victors, then nothing would be left for those that came after them.[3]

Granting vast stretches of land and population among a number of warriors was more than unequitable, it was untenable. From a military standpoint, the Arabs in settling on the land would lose their character as an army of occupation, and soon become engulfed by the native populus. Economically, turning over conquered territory to the muqatila would be ruinous to the fisc, and would be a decisive check to any at-

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But his categorization here appears misplaced; and, as noted by Hâtemî, Worms' view is simply a description of the basic position taken on conquered lands by the four schools of Islamic jurisprudence; as such, it is not "mistaken" as Köprülü contends. See H. Hâtemî, *Önceki ve Bugünkü Türk Hukukunda Vakıf Kurma Muamelesi* (İstanbul, 1969), 108, fn. 27.

[3] Abu Yûsuf, *Kitab al-kharâdj*, ed. E. Fagnan (Paris, 1921), 37.

tempt at centralization by the nascent Islamic state.[4] Dividing the land as spoil was an option, but it was one which was not in point of fact taken.

The second alternative of keeping the people in full possession of their lands while obtaining tribute from them was another consideration that could not be seriously entertained. This decision was not viable because the land was not theirs in the first place, and to make the cultivators the owners would be to invest them with a legal right they had never known; in fine, making Egyptian fellahin, Syrian coloni, and a Persian peasantry bound in feudal servitude masters of the land they cultivated would be to radically alter existing conditions of land tenure. In the Byzantine empire and in Sasanid Persia the peasantry did not own the land on which they worked; the principle of absolutism, prevalent in both empires, was inherited by the Arabs, who changed little of the financial structure of the dominions to which they fell heir.[5]

While the four schools of Islamic jurisprudence are not in accord on the subject of dealing with conquered lands, it is only the Hanefî school which admits of a number of options in dealing with this territory. The Shafi'î, Hanbalî, and Malikî schools are in agreement in regarding lands taken by force as being kharâdj, which are immobilised for the Muslims, and on which private ownership is not recognized. The Shi'î Ithna 'Asharî school makes it quite clear that lands of conquest are held in trust by the imâm for the benefit of all Muslims; the head of state only has the right to assign the usufruct of these lands in the interest of the common good, and possession in the form of private ownership is not accepted.[6]

As to the Hanefî school, although the imâm is presented with three possible options in dealing with the lands of conquest, it is only the last possibility that was ever considered by those Islamic states which followed the Hanefî school: the 'Abbasids, the Seldjuks, and the Ottomans declared conquered territory as belonging to the bayt mal al-muslimîn, the common treasury of the state.

For lands which submitted sulhan, that is, peaceably, by treaty or terms of unconditional surrender, they were subject to a tribute, originally shay' musamma, but later were to pay the kharâdj.[7] It did not automatically follow, as policy, that the people retained possession of their lands. At the discretion of the imâm, they could retain their lands as their other property, or these lands could be treated as territory that

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[4] Abu Yûsuf, 43.

[5] Ö. L. Barkan, *Türkiye'de Toprak Meselesi, Toplu Eserler 1* (İstanbul, 1980), 141, and 141 fn. 11; and F. Løkkegaard, *Islamic Taxation in the Classic Period* (Copenhagen, 1950), 38.

[6] Hâtemî, 108f.

[7] F. Løkkegaard, "Fay'" *Encyclopedia of Islam*, new edition, II, 869-70.

submitted by force of arms: the kharâdj was placed on them, and ownership passed to the Muslim community. It is possible that lands taken peaceably and by unconditional surrender refer to property attached to cities and towns, and not to the lands of the peasantry in the countryside; they did not own them in the first place, and treaties were made with representatives of the urban community, and not the cultivators of the land. At any rate, landed property left in the ownership of the subject population by conditions of peace must necessarily have been restricted.

One of the principal means by which Muslims have acquired ownership of kharâdj land has been the right of the imâm to grant allotments of conquered land as virtual mulk to private individuals.[8] While these assignments have the character of freehold, in point of fact, they are not; rather, they conform to the restrictions governing emphyteutic lease, and it is generally recognized that qata'i leases owe their inspiration to the conditions and practice of Byzantine emphyteusis.

Formed during the reign of the emperor Zeno (474-5; 476-91), emphyteuses had as their object the reclamation of abandoned and waste lands taken from the enemy. As an incentive to bring these lands under cultivation, they were leased to persons of means for a nominal yearly rent, and granted conditions approximating those of freehold; they could be granted for long term or in perpetuity, and could be alienated by sale, gift, or inheritance. Given these liberal terms of tenure, it appeared that this sort of transaction more properly resembled a sale than a lease; but in Roman law it was determined that emphyteusis was neither; rather, these grants conformed to the conditions and restrictions of their own contracts.[9] They could not have the character of complete dominium because possession of the land was always conditional. The ultimately tenuous and provisional nature of this type of holding is made clear in the Code of Justinian:

> We order that the right of emphyteusis, by which land is held without being subject to any other requirement, shall remain forever unimpaired, but We are unwilling that mere possession should obtain the benefit of prescription, which possession has been invalidated without the existence of any special obligation.[10]

The special obligation the government had in mind was to maintain the property in flourishing condition and to remit an annual rent to the

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[8] Abu Yûsuf, 90-2. The right of tenure described by Abu Yûsuf appears absolute, but the property could be revoked and given to another if the land were left uncultivated for a period of three years.

[9] S. P. Scott, ed. and tr., *The Civil Law* XII (Cincinnati, 1932), 22-3, fn. 1.

[10] *The Civil Law* XV, 225.

imperial fisc; failure to do so deprived the emphyteuta of the right of ownership, as expressed in the following law:

> Any person who has leased property of this kind in the ordinary way, or by emphyteusis, and allows it to deteriorate, or does not pay the rent for two years, according to the established rule, can be dispossessed under this law, and still be compelled to pay the rent for the entire term, as well as repair the damage he has caused to the property, without the right to recover any expenses which he may have incurred for the purpose of improving it.[11]

Under these conditions the lessee was always cognizant of the fact that the land he held by emphyteutic lease was imperial domain, which could be taken from him should he fail to fulfill his contractual obligations. By granting generous terms of tenure, the government brought into cultivation broad tracts of land which otherwise would have remained unproductive. But the conditions of emphyteusis strongly favoured the treasury, which was guarenteed a perpetual source of revenue, and which could always exercise the right of eminent domain should that revenue cease to be forthcoming.

Qata'i leases, like emphyteutic contracts, were given to private individuals and comprised land taken from the enemy that was in need of reclamation. Thus, 'Umar I confiscated the property of the Sasanid king and imperial family, those who had abandoned their lands, and those killed in battle, as well as postal routes and dessicated paludal land; these lands in the sawâd of Iraq he gave to various individuals for the purpose of reclaiming them and bringing them under cultivation.[12] Since these were lands of conquest, they were impositioned with the kharâdj; the imâm could, however, make them 'ushur lands, or assign to them various rates of taxation in accordance to the productivity of the soil and the manner in which they were irrigated, whether that impost be the tithe, the tithe and a half, the double tithe, or the kharâdj.[13] What was granted was not ownership of the land itself, but the right to its taxes; once land was reclaimed and was capable of bearing the full rate of taxation imposed on it, the holder was entitled to these taxes, minus the 'ushur tithe.[14] The lands were granted on condition of their reclamation and remission of the tithe; if the holder failed in this obligation, or abused the peasantry with excessive impost, the lands could be revoked; specifically, anyone who left land under this kind of contract fallow for three years could have it taken from him and assigned to another, follow-

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[11] *The Civil Law* XII, 25.
[12] Abu Yûsuf, 86-7.
[13] Abu Yûsuf, 87.
[14] Cl. Cahen, "Kharâdj," *Encyclopedia of Islam*, new edition, IV, 1031.

ing the rule of emphyteutic lease.[15] Naturally enough, since considerable tracts of land were given to wealthy Muslims on generous terms of tenure, there was always the temptation for the holders of these leases to treat them as if they were their own private property, and to derive the maximum financial returns from them, which included placing excessive exactions on the peasantry. Under the rule of 'Umar II (99/717-101/720), the holders of these lands were made aware of the fact that the property in their possession was not their own when the caliph had these qata'i leases annulled.[16]

Writing in the eleventh century, al-Mawardi described qata'i as iqta' al-tamlik, and mentions another type of lease known as iqta' al-istighlâl, by which he meant the assignment of kharâdj and 'ushur revenue to civil and military officials in lieu of pay.[17] This latter method of assigning revenue occurred under the 'Abbasids, but did not fully develop until the period of the Buyids, beginning with Mu'izz al-Dawla (320/932-356/967). When the Seldjuks entered Baghdad in 447/1055, they acquired the Buyid institution of military iqta'; but unlike the dynasty they replaced, the Seldjuks did not allow the iqta' system to slip from their control, and conditions of tenure by the military were rigidly controlled and closely supervised. It was only after the break up of the Great Seldjuk state under the atabegs that military leaders felt free to regard the territory from which they derived their income as their own personal property, which was a flagrant abuse of the system.

The regime of military and administrative iqta's was extended to the Rum Seldjuk state of Anatolia, along with direct payment of mercenary troops employed by the government, and passed to the Turcoman beyliks of western Anatolia when the Rum Seldjuks became tributary vassals to the Mongols after 641/1243.[18] One of these western principalities, the emirate of Osman, succeeded in becoming something more, and by expanding their frontier at the expense of the Byzantines in Bithynia, the Osmanlıs transformed their frontier state into an empire.

The Ottomans apparently continued the Seldjuk tradition of military iqta' in the timar system, where the revenue of conquered land was given

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[15] Abu Yûsuf, 90-2.

[16] See H. A. R. Gibb, "The fiscal rescript of 'Umar II," *Arabica* II:1 (1955), 1-16.

[17] See al-Mâwardî, *Al-Ahkâm al-sultâniyya*, tr. E. Fagnan (Alger, 1915), 409ff., and A. K. S. Lambton, *Landlord and Peasant in Persia* (Oxford, 1953), 29.

[18] See O. Turan, "Le droit terrien sous les Seldjoukides de Turquie; terres domaniales et diverses formes de propriété privée," *Revue des études islamiques* (1948), 25-49. and Cl. Cahen, "le Régime de la terre et l'occupation Turque en Anatolie," *Cahiers d'Histoire Mondiale*, II: 3 (1955), 566-580. Cahen notes that it is probable that the iqtâ' system was not used extensively throughout Anatolia under the Seldjuks, but that direct payment of troops was used as the Seldjuks relied on mercenaries, as he states on p. 573.

in exchange for military service. While it is possible that the Ottoman timar system was derived from the Byzantine practice of pronoia, it seems doubtful that that Ottomans would be unaware of their own immediate past, or that they would take as a model of emulation an institution open to abuse in an empire subject to decline. The Seldjuk iqta' would have been a preferable example to draw upon, if only because in theory and practice conditions of tenure had been rigorously enforced, and this could hardly be said of Byzantine pronoia in the fourteenth century. Another consideration to be borne in mind is that, on the whole, there is slight evidence the Ottomans borrowed from the Byzantines in forming their own institutions, and it is difficult to see why an exception should be made in the case of pronoia lands.[19]

By way of conclusion, it is correct to assume, then, that private ownership of conquered land was never admitted in Islam, whether in theory, or as policy.[20] The right of dominium was accorded neither to Muslims nor to non-Muslims and assignments of these lands under the appelation of qata'i or iqta al-tamlik were necessarily restricted with respect to the full rights of ownership. The same is true for the assignment of revenue, whether kharâdj or 'ushur, in lieu of pay in the form of iqta' al-istighlâl. Since kharâdj lands were held in inalienable trust for all Muslims, the only right accorded to the imâm was the right to rent in the name of the bayt al-mâl, leasing the usufruct only, while retaining full ownership of the land itself.[21]

While the Islamic state by legislation and policy exercised its claim to ownership of conquered lands, the regime instituted by 'Umar I which prohibited private ownership was effectively undermined by the end of the Umayyad era. In spite of the fact that the Arabs inherited in their conquest of Byzantine and Sasanid Persian lands a peasantry accustomed

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[19] Cl. Cahen, "Le Régime de la terre," p. 574 poses the question whether the Seldjuk iqtâ' was the ancester to the Ottoman timar, and concludes that as the expression timar does not appear in the Seldjuk or Ilhanid sources, it is doubtful that the institution originated under either regime. Further, the Persian term timar is similar in meaning to the Byzantine Greek word pronoia; both denote solicitude. Deny in his article on timar in the *Enclyclopedia of Islam* uses the same reasoning to conclude that the timar system was more probably derived from the Byzantine, rather than the Seldjuk, institution. See J. Deny, "Timar," *EI*[1] IV, 767-76. See the remarks of Barkan in his extensive article on timar in the *İslâm Ansiklopedisi*, XII, 286-333.

[20] This is the view of Løkkegaard, *Islamic Taxation in the Classic Period*, p. 49: "The State in all subdued countries reserves for itself the absolute title to all land." It is also the main position that is argued by Hâtemî in the first half of his study, *Türk Hukukunda Vakıf Kurma Muamelesi*. Barkan has gone to some length to demonstrate that private ownership on land was always admitted in Islam. See his various articles under the general title Türk-İslâm Toprak Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller in *Türkiye'de Toprak Meselesi, Toplu Eserler*.

[21] Hâtemî, 107-08.

to absolutism where the state was the acknowledged proprietor of all arable, this condition was soon eroded by Muslims acquiring land in conquered territories, and this process could not be stopped. With its sale, kharâdj land was converted into land which paid only the 'ushur tithe and which became the private property of its Muslim owner. Another process which brought kharâdj land out of cultivation was the abandonment by non-Muslims of their fields and villages for the cities, where they would become converted to Islam by attaching themselves as clients to Arab tribes. As the entire village collectively was responsible for payment of the kharâdj, it fell to the rest of the villagers to make good the loss in taxes created by the flight of the mawali convert. Naturally, taxes fell in arrears, and although recorded, were difficult to collect; the burden of taxation was felt especially severe when a number of villagers fled their fields for the cities.

Under the caliphate of 'Abd al-Malik (66/685-86/705), an attempt was made to redress this situation when al-Hadjdjadj, the governor of Iraq, forced the mawali back to their villages, and demanded the full rate of kharâdj from Muslims who had purchased conquered lands; it was a desperate measure that caused exasperation and resentment and could not be sustained.

Under the caliphate of 'Umar II, the doctrine that conquered lands were the property of all Muslims and not just simply of a few was reconfirmed by his abrogation of qata'i. They were annulled not only because they benefitted only a limited number of wealthy Muslims, including members of the caliphal family, but because the greed and rapacity of their holders proved injurious to the peasantry. 'Umar II also forbade Muslims from purchasing kharâdj land after the year 100/718-19, although Muslims who acquired conquest lands prior to that time were allowed to keep possession of their property. Both measures failed, and they could not be enforced after his death. As for the mawali, the caliph attempted to solve the problem of converts claiming tax exemptions by stating that if they continued to cultivate the land, they paid not the 'ushur, but the kharâdj, only in the form of a rent. The semantic distinction did not remove the fiscal difference between Arab and non-Arab Muslims; the full rate of taxation for converts remained, and the injustice of this discrimination was resented.[22]

During the reign of Hisham (105/724-126/743), a legal fiction was created whereby kharâdj was said to pertain to the land and not the landowner; lands assessed as kharâdj paid whatever amount had been placed on them, whether held by Muslims or non-Muslims. At this time

[22] Gibb, "The fiscal rescript of 'Umar II," *Arabica* II: 1 (1955), 1-16.

cadastral surveys of the land were made, and the lands were determined as being either 'ushur or kharâdj;[23] and it may be assumed that after the caliphate of Hisham no further conversions of kharâdj land to 'ushur occurred. To what extent kharâdj land had become 'ushur is difficult to determine; but as Syria and Iraq came to be regarded as lands subject to the kharâdj, it would appear that the conversion had not been considerable.

By the end of the Umayyad era, the principle of the state being the proprietor of lands acquired by force of arms had slipped away from the Arabs, in spite of energetic measures taken by the central government to preserve its claim to absolute ownership over the land. The efforts of the first Islamic state were not entirely in vain, since it had managed, in the final analysis, to enforce the dictum that conquered lands pay the kharâdj. The state also jealously guarded its rights to kharâdj and 'ushur revenue by clearly defining the limits of tenure when these sources of revenue were provisionally alienated, whether in the form of iqta' al-tamlik or iqta' al-istighlâl.

Any further attempt by an Islamic state to assert its right to the ownership of lands under its jurisdiction would have to await the advent of the Seldjuks. Under sultan Malikshah (465/1072-485/1092), the theory that the lands and the people belonged to the head of state was put forward in the *Siyasetnâme*, the treatise on statecraft composed by his Persian minister, Nizam al-Mulk. But when the Seldjuk government moved from theory to action in trying to put this concept into effect, it was greeted with the strong opposition of the people, who protested that the lands in their possession were legally and rightfully theirs. This notion proved impossible to enforce when imposed on a Muslim population that had become accustomed to a centuries-long tradition of private ownership on the land.[24]

When the Seldjuks moved into Anatolia, they met with conditions far more conducive to declaring lands that had come under their control state domain. There, the independent soldier-cum-landholders of the theme system had given way to the great magnates of the Byzantine civil and military aristocracy, and were reduced to the status of tenants on the extensive latifundia of pronoia lands. Upon their entrance into Anatolia, the Seldjuks encountered a land regime not dissimilar to the one the Arabs found when they invaded Byzantine Syria in that the peasantry

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[23] B. Lewis, *The Arabs in History* (London, 1966), 78.

[24] O. Turan, "Le Droit terrien sous les Seldjoukides de Turquie," *REI* (1948), 26-7. Muayyad al-Mulk, vizir to the caliph Al-Nasir lidin Allah, may have attempted to emulate the mîrî land regime in Anatolia when he deprived the people of al-Ahwâz of their property rights; the result of this endeavour was the outrage of the populus.

were not the proprietors of the land they cultivated. This state of affairs enabled the Seldjuks of Rum to make the conquered regions of Anatolia entirely theirs in the form of mîrî arâzî, or state lands.[25]

Under the Rum Seldjuks mîrî lands were alienated in the form of military and administrative iqta' for limited periods under the close scrutiny of the fisc, and lands were assigned, in the form of tamlik, to deserving individuals as mulk, which were treated in effect as their own property, and some of these mulk lands were converted into vakıf;[26] but the extent of mulk and vakıf lands may not have been very great, any more than the grants of iqta'. It is evident from the records of the Turcoman principalities which formed in western and central Anatolia after the decline of the Seldjuk state of Rum that these beyliks adopted the mîrî land regime of their predecessor, as well as the system of military and administrative iqta'.[27]

The emirate of Osman, formed along the march facing Byzantine Bithynia, similarly inherited the apparatus of administration from the Seldjuks, and distributed allotments of land to mounted retainers who consisted in the main of Turcoman nomadic cavalry. The irregular forces of Turcoman tribesmen were awarded the spoils of war during the initial phase of the Ottoman conquests, but for a number of their commanders timar fiefs replaced booty and plunder, and the Seldjuk iqta' continued in the form of the Ottoman timar.

The Ottomans also took over the mîrî land regime from the Seldjuks, but unlike the other principalities, their borders were not self-contained, and they had less control over lands that comprised a continually expanding frontier. A policy of close supervision over conquered lands could not be easily implemented, and the nascent Ottoman state found itself in a position of having to alienate these lands as iqta' al-tamlik, or, in Turkish parlance, temlik. In order to secure these recently won regions, grants of land had to be given to Turcoman tribesmen and dervish colonists that were equivalent to freehold, as a reward for service and as an inducement to their settlement, defense, and cultivation.[28]

The autonomy the Ottomans gave to newly conquered territory in the Balkans was therefore considerable, and Turcoman commanders achieved a large degree of independence in administering the provinces they governed. The degree of control given to the Turkish aristocracy in

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[25] Turan, "Le Droit terrien," 29f.

[26] Turan, "Le Droit terrien," 39.

[27] Turan, "Le Droit terrien," 34.

[28] See Barkan, "Osmanlı İmparatorluğunda bir iskân ve kolonizasyon metodu olarak vakıflar ve temlikler. I. İstilâ devrinin kolonizatör türk dervişleri ve zaviyeler," *Vakıflar Dergisi* II (1942), 279-386.

the provinces, and the amount of land given as mülk and vakıf were relinquished of necessity at the beginning of the Ottoman advance into the Balkan peninsula. But when efforts were made at increased centralization of the state under energetic sultans like Bayezid I and Mehmet II, reclaiming these lands for the crown proved a difficult undertaking, and, ultimately, unenforcible.[29]

During the reign of Bayezid I (791/1389-804/1402), advances were made by Ottoman forces into Albania, and part of the country came under Ottoman occupation. Albanian princes who submitted to Ottoman rule were made vassals, while direct control was introduced where Albanian feudal lords resisted. It would seem, then, that the mîrî land regime was first instituted with the Ottoman occupation of Albania, between 1393 and 1395. Evidence of this can be found in the Ottoman land registers made for Albania in 1423, and this has been cited as convincing proof that the practice of making conquered lands state domain occurred very early in Ottoman history, dating from the period of the first Ottoman empire.[30]

Contrary to this opinion is the belief that the mîrî land regime was not applied until the middle of the sixteenth century, and the policy that had existed by the central government until that time was to treat Anatolia as öşür land, and Rumelia, the Balkans, as harac.[31] But in light of the information that is provided in the Üsküb ve Selânik kanunu of 976/1568, it is doubtful that the system of mîrî arâzî was implemented from the beginning of the empire, or that it was an integral part of the timar system. It also appears doubtful that Rumelia and Anatolia were regarded by the state as harac and öşür territory. The mukaddeme or introduction to the register for Üsküb clearly describes conditions of land tenure that had existed up to that time:

> But in the venerable registers of former times, details of conditions of lands within the protected dominions are not encountered. And what is the real condition of these lands, are they öşriye or haraciye? Since it has been neither determined nor stated whether they are the mülk property of those who possess them, the reaya, thinking the lands in their possession were öşriye, contested giving one-eighth of the produce, and thinking their lands were their own, like their other mülk property, they purchased and sold them among one another. And some assumed, without warrant, that they could make them vakıf, and the governors and judges as well, contrary to

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[29] H. İnalcık, "The Rise of the Ottoman Empire," in *A History of the Ottoman Empire to 1730*, ed. M. Cook (Cambridge, 1976), 49-50.

[30] H. İnalcık, "Land Problems in Turkish History," *The Muslim World*, XLV: 3 (1955), 223; and H. İnalcik, *Hicrî 835 tarihli Sûret-i defter-i sancak-ı Arnavid*, Ankara, 1954.

[31] See the article "Arâzi-i Üşriyye," in *Osmanlı tarih deyimleri ve terimleri sözlüğü* vol. I (İstanbul, 1946-56), 78-9.

> the holy law, gave deeds of purchase and sale and vakfiyye deeds, and since this has caused grave harm to the general order of affairs and the interests of the people, by means of the noble imperial registers, the real condition of the lands within the protected dominions will be determined and made manifest, and a ferman is to be issued to state and make clear the manner of possession to those who occupy these lands ....[32]

According to this account of Ebussuud, there had been no general policy towards subject lands on the part of the government until the mid-sixteenth century, and, as the registers did not reflect any procedure to be taken, both subject population and government officials were under the assumption that the lands were the private property of those that cultivated them. The question he posed was whether they were to be regarded as arâzî-i öşriye or haraciye; the possibility of considering them one or the other is indicative of the fact that they had not been regarded as either until that time.

In Ebussuud's opinion, the characteristics of harac and öşür lands were well defined, and the regions of both categories had been determined since the first Arab conquests: land within the dominion of Islam, according to the requirements of the holy law, consisted of three parts:

> One part is arz-ı öşriye which, at the time of conquest, was given into the possession of the people of Islam. It is their true property; like their other possessions, they may dispose of it however they wish. Since it was not lawful in the beginning to place the harac on the people of Islam, the öşür was placed on them. They reap and sow these lands, and apart from the öşür, nothing is to be taken from the produce which accrues. They give this öşür to the poor, and it is not canonically lawful to give it to someone of the sipâhi class or to anyone else. The lands of the Hicaz and Basra are like this.
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> There is another part which is arz-ı haraciye which, at the time of conquest, was established as in the hands of the unbelievers and was given into their possession. The harac-ı mukaseme was placed on them, and, according to what the land could bear, a tenth, eighth, seventh, sixth, or up to a half could be taken from the produce, and the harac-ı muvazzaf was placed on them also, consisting of a yearly sum of money. This part of the Islamic lands is the real property of its owners; they are able to buy and sell their lands and are capable of other kinds of acts of disposal. Those who purchase them likewise in the manner described cultivate them and give the harac-ı mukaseme and harac-ı muvazzaf. If the people of Islam purchase them, then the harac taxes traditionally paid by the unbelievers do not cease, but are paid without fail. And while it had not been canonically lawful to place the harac on the people of Islam in the beginning, subsequently it became lawful to take it. And those who possess these lands, whether they are Muslim or non-Muslim, since they cultivate the lands in their possession,

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[32] *Millî Tetebbüler Mecmuâsı*, ed. Köprülüzâde Mehmed Fuad, (İstanbul, 1331/1913), 57-8.

they may not cease working them, and they are in no way to be interfered with: they are to be held in ownership however those who possess them wish. When they die, they may transfer them to their heirs like their other lands and property. The lands of the sevâd-ı 'Irak are like this, and the lands which are generally known and written in the books of the sacred law are these two divisions.

There is another part which is neither öşriye, nor in the manner described haraciye. It is called arz-ı memleket. Essentially, it is haraciye, — but in case it were given into the possession of the owners, then the land would be divided among the numerous heirs, and each would obtain a portion, and according to the share of each of them, the harac taxes would be apportioned and assigned to them, and since this would be extremely difficult, if not, in fact, simply impossible, the rakabe of the land is kept for the beytülmâl-ı müslimîn, and the land is given to the reaya by way of a loan. This they cultivate and plant orchards and vineyards on, and from that which is produced from the land, it is commanded to give the harac-ı mukaseme and harac-ı muvazzaf. According to some of the religious authorities of the various schools, the lands of the sevâd-ı 'Irak are of this kind.[33]

Ebussuud goes on to reiterate the fact that lands known as arz-ı mîrî or arz-ı memleket are not the private property of the reaya, but are given to them in the form of a loan. The harac-ı mukaseme is taken from them, but under the name of öşür, while the harac-ı muvazzaf is taken with the name of çift akçesi. No one, he states, has the power to dispose of any of these lands contrary to the manner described, and buying, selling, or bequeathing them as a donation or alienating them by any other means is entirely null and void; making them vakıf is likewise invalid, and the title deeds and the vakfiye deeds that the kadıs give for them are utterly void.[34]

It should be noted that this account is an effort to justify the introduction of the mîrî land system into Rumelia and Anatolia by demonstrating its essential similarity to lands whose conditions of tenure and taxation were sanctioned by the şeriat.

But the analogy that is made cannot be held too closely: the çift akçesi and âşâr tithes are not canonical, but customary dues; the Ottomans had retained various tax structures as they found them in the Balkans and Anatolia, and altered little, save for the names of these assessments.[35] In the main, the Ottomans were following taxation that was traditional and indigenous, and not strictly Islamic.

It would have been a simple matter to declare all conquered lands harac, in the classic sense, but Ebussuud makes it clear that that was no

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[33] Üsküb ve Selânik Kanunu, presented by Barkan in his *XV ve XVI ıncı Asırlarda Osmanlı İmparatorluğunda Zirai Ekonominin Hukukî ve Malî Esasları* (İstanbul, 1943), 297-99.

[34] Barkan, 299.

longer possible. It was impossible because harac lands had for centuries ceased to be regarded as the property of the state, and had become private property. Syria and Iraq, the heartland of the former eastern caliphate, had become predominantly Muslim and Arabic, and the form of land tenure that prevailed in Arabia passed to harac territory, thereby ending what had been a fundamental distinction between the two. Further, the harac was now paid by Muslims. The original conditions governing harac territory no longer held, and these characteristics had to be placed under a new nomenclature, — that of mîrî arâzî.

When the central Islamic lands were taken by the Ottomans in the early sixteenth century, there was no question of incorporating them as state domain; they were mülk and canonically harac. Nor was the Ottoman timar system introduced; these lands became müstesna eyâletler, provinces that were exempt from the normal form of Ottoman administration. The provinces of Sayda, comprising Beirut and Syria, Halep, Bağdat, Basra, Musul, Trablus Garp, or Tripoli in Libya, Bingazi, the Hicaz, and Yemen were considered müstesna eyâletler. The Hicaz and Basra were arâzî-i öşriye, while the other provinces were arâzî-i haraciye.[36]

The Üsküb ve Selânik kanun strongly affected the sensibilities of those who had come to regard their landed property as their own. At the beginning of the reign of Selim II, Ebussuud ordered a revision of the cadastral registers for the district of Salonica, and as a part of this revision he ordered a confiscation of the property belonging to the monks on Mount Athos. Lands which they had traditionally enjoyed as mülk were now registered as property belonging to the beytülmâl-ı müslimîn. The same lands which the monks had originally purchased from the peasantry now had to be rented from the Ottoman treasury on payment of an investiture fee called tapu. While the land would remain in the possession of the monks as before, and they would continue to cultivate it and have the right of use, they no longer possessed the right of complete ownership. This right would have permitted alienation of the land in any manner as freehold property without having to ask permission from the government. The effective implimentation of the theory that these lands were now state domain was a radical change in the existing conditions of land tenure for the monks of Mount Athos.[37]

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[35] H. İnalcık, "Osmanlılarda Raiyet Rüsûmu," *Belleten*, 23 (1959), 575-608.

[36] Pakalın, "Müstesna Eyâletler," II, 632.

[37] Paul Wittek and P. Lemerle, "Recherches sur l'histoire et le statut des monastères Athonites sous la domination turque," *Archives d'Histoire du Droit Oriental*, 3 (1947), 411-72.

The situation of Mount Athos could be regarded as an isolated and unusual case, for it was customary to grant privileges and tax exemptions to monastic establishments and other religious foundations, a practice which went back to the first Arab conquests. But it is apparent that the monks were not exceptional in regarding their lands as their own, and Ebussuud's legislation must have gone counter to customary law that had been in effect up to that time. However shocking and revolutionary this edict may have been, the Muslim and non-Muslim reaya were hardly in a position to do anything about it. They could not appeal to canon law, because they had not been governed by Islamic law; unlike Syria and Iraq, the Ottomans were free to deal with Rumelia and Anatolia in the manner they desired, without being restrained by ancient traditions sanctioned by the şeriat.

Far from being restricted by the holy law, the state was using its religious authority to disallow private ownership on arable land. Like the kanun for the livas of Üsküb and Selânik, the kanun for the eyâlet of Budin, the province of Hungary, was more than an act of civil legislation authorized by the sultan, it was a canonical ruling on the status of lands. The language and style of this land law is in the form of a fetva, or a decision made by a müfti, who, as legal counsel, passes judgment on matters with respect to their canonical permissibility. In this case, the fetva came from the Müftilenam, the supreme legal counsel for mankind, the Şeyhülislâm Ebussuud Efendi. The first part of the Budin kanunu clearly states that the reaya do not have ownership rights to the land and describes how this land is to be held by them:

> With divine guidance and assistance, his excellency conquered the vilâyet of Budin, and undertaking to enact the manifest laws of justice and equity towards all reaya and all the free citizens of the state, it has been ordered by ferman and command in this manner that as a rule the people of the mentioned vilâyet are established in their own places, and no one may interfere with them or their descendants. And the movable property which is in their possession, together with their houses, shops, and other buildings, and the produce of their gardens and orchards in the villages and towns are their own property, and they possess them however they wish; purchase, sale, and donation, and other forms of alienation are entirely in their hands, and when they die, they may transfer the ownership to their heirs, and apart from the taxes on their gardens and orchards, no one may interfere with their property. And the fields which they customarily cultivate are determined to be in their possession, but they are not in their ownership like their other property which has been mentioned; rather, like the arâzî-i memleket which is known as arz-ı mîrî in other protected dominions, the rakabe-i arz belongs to the beytülmâl-ı müslimîn, and the reaya possess it by way of a loan. And from the various cereal grains and other crops which they may cultivate however they wish, they pay the harac-ı mukaseme

known as öşür and other taxes, and they may mortgage them however they desire. Since they may not cease to work the land, as is proper, they are to cultivate it and keep it in a flourishing condition, and they are to pay their taxes without fail, and no one is to interfere with this. They possess the land until they die, and when they die, their sons are to take their place, and they are to possess the land in the manner described. But if none of the sons remain, as with lands in other cultivated dominions, it is lawful to assign the property to someone from outside, and the ücret-i muaccelesi is to be taken from such persons and a tapu given to them; and they too possess the land in the manner described. And the lands of their gardens and orchards also being of this kind, if the gardens and orchards become ruined, as these lands are possessed like their other fields, it must not be supposed that they are their own property like the produce which is in their possession.[38]

The rest of the Budin kanunu is in traditional fetva form, written in the style of question and response. Some eleven questions are posed regarding the three divisions of lands within the empire, and their relation to the şer'-i şerîf, the sacred law. Representative of the kind of questions asked is the matter of kadıs having given title deeds for the purchase and sale of öşriye and haraciye lands in Rumelia; accounts of these transactions could be found in the judicial records of the kadıs. This had been the general practice, and evidence such as this could not be ignored; the problem had to be addressed and a suitable explanation given:

Question: According to the time, when arâzî-i öşriye or haraciye which was in the hands of the reaya of Rumelia was purchased, pledged, placed on deposit, loaned, or sold, the custom had become established such as the right of preemption and exchange, and the kadıs, recording such transactions in their records, customarily had given title deeds into their hands, and had given their signatures. According to the şer'-i şerîf, was what the kadıs had done in conformity with the sacred law? Explain.
Answer: The aforementioned land is neither öşriye nor haraciye, it is arz-ı memleket. Neither was it divided among the warriors and made öşriye at the time of conquest, nor was it given to its owners, it was made purely haraciye, and the rakabe-i arz pertained to the beytülmâl. The land was divided and given to those who possessed it by way of a rent; they cultivate it and give the harac-ı muvazzaf and the harac-ı mukaseme and they possess the land. The judicial decisions which have been recorded regarding their loan and deposit are not legal. And those who inhabit shops that are bought and sold and made vakıf which are current among mankind by means of paying rent, it is as if they purchased them. Transactions without the permission of the sipâhi are entirely void. As for the right of use, to cede it in exchange for a certain amount and then for the sipâhi to give it to another by tapu is not contrary to the şer'-i şerîf. The money received in this transaction is the downpayment fee for the land. And for the kadıs to allow barter in the giving and taking of land among the reaya merely on

[38] *Millî Tetebbüler Mecmuâsı*, 49-50.

> their own authority and to give title deeds for them is absolutely contrary to the şer'-i şerîf; and writing deeds to such effect and signing them is entirely null and void. (Written by your humble servant Ebussuud)[39]

This explanation, as an historical account, is not very satisfactory, and the difficulty can be detected in Ebussuud's awkward and abrupt change of tenses. He states that the land had been divided and given to the reaya in the past tense, and then shifts to the present to say that they give the harac-ı muvazzaf and harac-ı mukaseme. Here he is describing the present state of affairs, and not what had gone on in the past. While the Ottoman government may have had a tendency in the past to regard conquered land as the property of the state, especially under such sultans as Bayezid I and Mehmet II, no such policy had been implemented. What had actually happened was that in the absence of any clear policy, private ownership of land was a right that was generally assumed as belonging to the reaya, for both Muslim and non-Muslim. The kadıs were not mistaken in according them this right, since private ownership had long been admitted on harac as well as öşür land.

It had been a relatively simple matter to take private ownership out of the hands of the reaya; there remained, however, the problem of arâzî-i mevkufe, landed property made vakıf. An attempt to claim religious foundation property for the state had been made under Mehmed II in 1475, when that sultan seized some twenty thousand villages and had them reassigned to the sipâhi cavalry force as timars. But the general outcry was great enough to make the measure futile; and under his successor, Bayezid II, the property was returned. A similar plan was not envisaged by Süleyman, — nor could it be; such an act was unjustifiable on canonical grounds, and, what is more, would have provoked outrage to religious sensibilities.

Nevertheless, to let matters stand as they were would mean significant loss of revenue for the treasury. A solution was found in declaring it lawful to place dues on evkaf property. As stated by Ebussuud in the Budin kanunu, after the just amount had been fully obtained for the vakıf, if the renters, meaning the reaya cultivators, gave something additional to the owners of the land, then it was not forbidden. But if the extra sum taken would prevent the vakıf from obtaining its due share, then this additional amount collected was to go to the vakıf. The arrangement was sensible and fair; but it was clearly illegal. The revenue from property made vakıf was to be expended for the specific religious or charitable end stipulated by the founder; devoted to such purpose, this income could not be interfered with in any way, and no part of it could be taxed. And yet,

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[39] *Millî Tetebbüler Mecmuâsı*, 52.

since all the lands of Anatolia and Rumelia were made mîrî arâzî, vakıf landed property within these regions became state land as well, and paid the harac-ı mukaseme and the harac-ı muvazzaf like other lands.

Evkaf lands in the diyar-ı Rum, Anatolia, were regarded as iki başlı, literally two headed, as one tax went to the state, while the other went to the vakıf. The practice of deriving government taxes from vakıf land was nothing new, — it had been a policy of the Rum Selcuks; and this custom must have been current in Anatolia and Rumelia before the mid sixteenth century.[40] But this two-sided land tax had not been put into effect as uniform policy until the time of Ebussuud.

The taxes designated as harac-ı mukaseme and harac-ı muvazzaf on vakıf lands were to go to the timarlı sipâhi, and were stated to be rüsûm-ı şer'iye, canonically lawful dues. The harac-ı mukaseme was assessed as one tenth or one-eighth of the produce, while the harac-ı muvazzaf was the çift resmi, or tax that was placed on the amount of land that could be cultivated with a pair of oxen, which varied between twenty to thirty acres.[41] The harac-ı mukaseme was the traditional öşür,[42] or âşâr in the plural, but this had little to do with the öşür defined by Islamic law: it was a general term for customary taxes paid to the state.[43] Both âşâr and the çift resmi were rüsûm-ı örfiye, traditional or customary tithes which fell under the consuetudinary law expressed in the kanuns, and thus were civil legislation. They did not come under the religious law of the şeriat; calling these taxes harac did not make them canonical or legally acceptable in terms of the holy law.

The fee given for the right of the reaya to cultivate mîrî land was known as resm-i tapu, while the tapu was the title deed which conferred the hakk-ı tasarruf, or right of use. One of the questions posed in the Budin kanunu to which Ebussuud gave his opinion concerned the resm-i tapu and who had the right to receive it. It was asked what would happen in the case where land that had been made vakıf for a cami were to become vacant, if the land were in an area which was assigned as a timar for a sipâhi who collected the traditional taxes from the property. In such a case, a ruling had to be made as to who had the right of giving the tapu to the new cultivator, the mütevelli of the vakıf, or the sipâhi of the timar. Ebussuud's reply was that traditionally the tapu never came from the owner of the land or from the mütevelli of the vakıf, but from the sipâhi, and registers from long past and numerous traditions all confirmed that the sipâhi obtained the resm-i tapu. Ebussuud then goes on to contend

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[40] See Turan, "Le Droit Terrien sous les Seldjoukides," 41.
[41] *Millî Tetebbüler Mecmuâsı*, 51.
[42] *Millî Tetebbüler Mecmuâsı*, 51.
[43] Barkan, "Öşür," *İslâm Ansiklopedisi* IX, 485.

that none of the kadıs, whether individually, or all of them collectively, had the authority to rule in favor of the vakıf by simply saying when the land became vacant, a downpayment fee known as ücret-i muaccelesi was paid to the vakıf in exchange for the right of use of the land.[44] But the dominant impression is that up to that time, whenever vakıf lands fell vacant, the ücret-i muaccelesi had been paid for the right to cultivate the land and enjoy part of its produce. It appears that Ebussuud was asserting the right of the state to revenues on vakıf lands which had customarily been paid to the vakıf, and, in so doing, was by his own admission contradicting the general ruling of the kadıs who were defending the rights of the vakıf.

The prohibition against all forms of alienation of mîrî lands is a formula which repeatedly occurs in the fetvas of Ebussuud; and, while it is aimed specifically at the reaya, the sanction, it is clear, applied to everyone. No one, of his own authority, had the right to treat these lands as mülk, or make them vakıf under any condition, even if approved by the kadıs. These lands could not be regarded as private property under any condition, that is, save one; — unless the sultan had assigned these lands as temlik.[45] The expression temlik or tahsis refers to the assignment of state lands by the sovereign to an individual as mülk.

These assignments of mîrî lands by the sultan have often been cited as incontrovertible proof that freehold existed by those who defend the notion of private ownership in Islam. The vakfiyye deeds drawn up by the founders of religious foundations invariably state that the property they are about to dedicate as an endowment is entirely their own mülk, which had been granted to them by the sultan. The practice of converting mülk to evkaf is attested then in all vakfiyye documents, and the right of the sultan to alienate state lands was responsible for the spread of religious foundations throughout the empire. The evidence therefore is plain enough; and it would be difficult to deny a practice which has been so clearly and unambiguously stated, and one which was so widespread and prevalent.[46]

Or so it would seem. But it would be a mistake to accept such a prima facie reading of the evidence. According to the text of some fetvas, when vakıf villages whose income had been stipulated for the poor were not attended to, it was permissible to convert these villages into timars.[47] The

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[44] *Millî Tetebbüler Mecmuâsı*, 54.

[45] *Millî Tetebbüler Mecmuâsı*, 51.

[46] This is Barkan's position, which is found in his "İmparatorluk Devrinde Toprak Mülk ve Vakıflarının Hususiyeti," *İstanbul Üniversitesi Hukuk Fakültesi Mecmuâsı*, III (1942), 906-42, and in *Türkiye'de Toprak Meselesi*, 249ff.

[47] Hâtemî, 131, fn. 3.

conditions of mülk and evkaf lands always had to be respected; once it was determined they were not, the property could be revoked.

An example of the provisional nature of evkaf is to be found in the tax-exempt lands which had been given to dervish colonizers from the conquered regions of Thrace and the Maritsa River valley. The lands had been given to the dervishes on condition that they used their tekyes and zâviyes as hostels for travelers and for the military; those dervish convents which no longer performed their function were deprived of their lands:

> As the Ottoman empire developed a strong, centralized state, the government abolished most of the zaviyes, since by the sixteenth century many of them had lost their true functions while still enjoying tax exemptions, and so long as they remained as vakıfs the state could not use their lands for financial and military purposes. The state, therefore, abolished those zaviyes which were not situated on roads and performed no service for travelers, and those which did not expend their income on the charities for which they had been founded. The state would abolish the vakıfs and acquire the land.[48]

Another example of the manner in which vakıf lands were held in precarious tenure is the fact that it was obligatory that they be registered with the central government. With the accession of a new sultan to the throne, the vakfiyyes were subject to review, and then either confirmed by a patent known as berat, or abolished.[49] This instance clearly illustrates the tenuous nature of vakıf lands which had been mülk assignments, and the ultimate claim that the state had to them if they ceased to fulfill their function. The government never lost sight of the fact that crown lands alienated as mülk and evkaf remained the property of the state, which could be redeemed at any time. In point of fact, mîrî lands given as mülk were really given under the same conditions of emphyteutic lease, as qata'i grants had been. They had the character of freehold and most of the rights of private ownership were accorded to them; but not all. The state retained the final right of proprietorship over mîrî lands; granted as mülk, they were actually given according to the terms of perpetual lease subject to the conditions of their own contracts. The intention of the founders of religious endowments was what it always had been: to preserve their patrimony intact for themselves and their descendants. Placing their mülk property in vakıf circumvented the Kuranic rules regarding inheritance, and prevented the possibility of confiscation by the state. The government, however, asserted its right to

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[48] İnalcık, *The Ottoman Empire; The Classical Age, 1300-1600* (New York, 1973), 150.
[49] İnalcık, *History of the Ottoman Empire to 1730*, ed. M. Cook, p. 52.

supervision and control of evkaf made from mülk formed from the alienation of state lands. With the establishment of this principle, the state claimed its right to supervise all evkaf landed endowments.

This degree of control over mülk and vakıf property worked well enough in the sixteenth century, when the Ottoman empire reached the apogee of its power and the state achieved virtual absolutism. It has been estimated that the size of evkaf and mülk holdings in the first half of the century was relatively modest: in 934/1528, they amounted to some sixteen percent of the total state revenue.[50] What is more, vakf-ı ehlî or family vakıfs were neither significant in number nor widespread during this period;[51] the majority of endowments were created for religious or charitable ends, and not for the benefit of an individual and his posterity.

During the next two centuries, from 1600 to 1800, when the empire experienced a protracted state of decline, and political power slipped from the hands of the sultan and the central government, the condition of evkaf changed. The number of landed endowments grew considerably, and so much so that it was estimated by foreign observers that anywhere from two-thirds to three-fourths of the land of the empire had by the nineteenth century been placed in vakıf.[52]

Another significant change was that the majority of these foundations had become semi-familial evkaf. Vakf-ı evlâdiye or vakf-ı ehlî was a religious foundation whose principal beneficiaries were the founder and his posterity to the extinction of his line. Upon the death of the last descendant the endowment reverted to the poor. Semi-familial evkaf was prebendary, in that the founder appointed himself and his posterity to various official and administrative posts pertaining to a religious or charitable institution. The founder, known as the vâkıf, appointed himself to the position of şeyh if he created a dervish convent; müderris or professor if he established a medrese, or theological college; and mütevelli, or administrator of the foundation, whether it be a mosque, soupkitchen, inn, hospital, or any other institution that was created. It hardly need be stressed that this last office enabled the vâkıf and his

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[50] İnalcık, 52.

[51] Barkan, "Şer'i Miras Hukuku ve Evlatlık Vakıflar," in *Türkiye'de Toprak Meselesi, Toplu Eserler*, 209-30. The concluding remark on p. 230 summarizes Barkan's estimation of the number of family vakıfs at the beginning of the sixteenth century; in fine, they were relatively few.

[52] Barkan, "Problèmes fonciers dans l'Empire Ottoman," in *Annales d'Histoire Sociale*, I: 3 (1939), 237. Barkan believes that the vast majority of vakıfs which had multiplied during the latter period of the Ottoman empire consisted of foundations of public utility founded by the sovereign, and not family vakıfs. But Yediyıldız, basing himself on the research of over 300 vakfiyye documents of the eighteenth century, conclusively proves that the majority of vakıfs created during the latter period of the empire were semi-familial in nature, and not strictly endowments of public utility.

posterity to exercise virtually absolute control over the foundation and its revenues.[53]

A supervisory function was entrusted to the nâzır, whose duty it was to oversee the vakıf and ensure that its revenues were being expended for the purpose to which the founder intended. It has been estimated that during the eighteenth century some 64 per cent of the vakıfs founded were inspected by the kadıs; for the remaining 36 per cent, specific individuals were appointed nâzırs by the vâkıf.[54]

It was not uncommon for members of the ulema to appoint the Şeyhülislâm as nâzır of their evkaf, while the rical, the leading dignitaries of state, designated some high personage, such as the dârüssaâde ağası, or chief black eunuch of the palace, the grand vizir, or some other noted official as superintendent of their evkaf; all of which is to say that the rical and ulema entrusted the inspection of their endowments to the leading representatives of their class.[55] With the weakening of the power of the central government, the prerogatives and influence of these high officials grew, and the considerable revenues under their supervision increasingly came to be diverted to their own purpose.

During the course of the eighteenth century, the majority of vakıfs that were founded were created by the askerî sınıf, the military class, which comprised the civil as well as the military aristocracy, the religious class of the ulema, and members of rank belonging to the various tarikats, or dervish brotherhoods.[56] The reaya class consisted of the Muslim and non-Muslim peasantry and the artisan and merchant class who formed the majority of the population of the empire. Of the 6000 vakıfs created during the eighteenth century, 90 per cent were founded by the Ottoman ruling class, while only 10 per cent were founded by the reaya. Not a single vakıf was attributed to the peasantry, whereas the artisan and merchant class tended to establish vakıfs in money, not in land; and this is understandable, since, as reaya, ownership in land was denied them. Further, artisans and merchants were, for the most part, non-Muslims, and the interest from the liquid assets they made vakıf frequently went to the support of church or synagogue. The number of Muslim reaya engaged in trade and industry who created religious endowments would appear, therefore, to be limited, and they represented only a fraction of

[53] This is the principal thesis of Bahaeddin Yediyıldız in his "L'Institution du Vaqf au XVIII[e] Siècle; Étude sociohistorique." Unpublished PhD dissertation, Sorbonne, University of Paris, 1975. The author has estimated that up to 75 per cent of the vakıfs created during this century were semi-familial; their offices were familial functions which were hereditary. See pages 171f.

[54] Yediyıldız, 196.

[55] Yediyıldız, 165-66.

[56] Yediyıldız, 162.

the 10 per cent of the subject class who founded evkaf. Of this 10 per cent, less than 2 per cent of the reaya actually designated themselves vâkıfs of these endowments.[57]

During the two centuries of Ottoman decline, therefore, landed endowments rapidly increased to cover much of the best arable in the empire, and, owing to the weakness of the central government, their growth could not be checked. Although ostensibly created for the support of some religious or eleemosynary institution, their real aim was to provide an inalienable patrimony for the vâkıf and his descendants.[58] Due to the venality of the kadıs, the mütevellis, and specifically appointed nâzırs, proper supervision and administration of the revenues of these endowments could not be effected.[59] At the expense of the treasury, evkaf became the mülk property of the rical class, and its superintendance became decentralized.

These developments naturally had the effect of confirming the freehold character of mülk and evkaf which had been granted from mîrî lands. The era of unrestrained expansion and autonomy of religious foundations came to an end under Sultan Mahmud II. With his suppression of the ayans, the notable class that had become semi-autonomous in the provinces, and his annihilation of the reactionary Janissary Corps in 1826, Mahmud II was in a position to enforce his absolutist aims throughout the empire. In the same year he destroyed the Janissaries, Mahmud founded a ministry for evkaf. The ministry was an outgrowth of the evkaf holdings directly under imperial control, the vakıfs of Abdulhamid I, Selim III, and his own endowments.[60] Since the nucleus of this ministry consisted of evkaf-ı selâtin, the foundations of the sultans, the newly created department was called the Evkaf-ı Hümayûn Nezareti, the Ministry for Imperial Religious Foundations. In a short time, all the evkaf of the empire fell under the supervision and control of this ministry. The title of the nezaret proved fitting, for in taking control of religious foundations in their entirety, Mahmud was reasserting a right that had been established centuries ago, the right of the sultans to control all evkaf. The totality of religious foundations were, in effect, evkaf-ı

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[57] Yediyıldız, 163, 169, 170.

[58] Yediyıldız, 170-71.

[59] The venality of the kadıs was well established in the latter part of the eighteenth century, and imperial orders were issued to curb their abuses. For example, they would impose extraordinary and burdensome taxes on the peasantry under the pretext that they were requisitioning for a military campaign. See *Yıldız* tasnıfı, hatt-ı hümayûn no 702, sene 1203/1789.

[60] For a short history of the development of the Evkaf-ı Hümayûn Nezareti, see İbnülemin Mahmut Kemal and Hüseyin Hüsamettin, *Evkaf-ı Hümayûn Nezaretinin Tarihçe-i Teşkilâtı ve Nuzzârın Teracim-i Ahvalı*, İstanbul, 1335/1916.

hümayûn; they are considered imperial evkaf because of the ultimate right the sultan had to control them and dispose of them at will. It would have been too radical a measure for Mahmud II to have abolished the vast landed estates of semi-familial evkaf which had been in existence for centuries; they could not, therefore, be seized directly by the government. A more indirect but equally effective means of controlling them was found in supervising their revenues with the object of putting an end to maladministration and misappropriation of their income. After centuries of abeyance, the right of proprietorship by the state to what were, in essence, mîrî lands was reasserted; and the administrators were suddenly reminded that the property under their stewardship had never been theirs.

Apart from its emphyteutic character as an extended imperial lease, vakıf made from mîrî lands had an extra-legal status, and this quasi-legality is the essential nature of Ottoman evkaf. Two kinds of evkaf were recognized under Ottoman law, vakf-ı sahih, sound vakıf, and vakf-ı gayr-ı sahih, or vakıf which was not considered valid or sound. The first kind was evkaf made from harac and öşür lands, which comprised the entire Arabic East and Arabia proper respectively.[61]

The second kind, vakf-ı gayr-ı sahih, was the assignment of part of the revenue pertaining to the treasury for some religious or charitable purpose. Another term for this type of evkaf is tahsisat kabîlinden, that is, revenue appropriated for some special and designated end; it is also known as vakf-ı irsâdî. Vakf-ı gayr-ı sahih is divided into three categories, according to the specific fiscal rights that are alienated by the treasury. In the first instance, the rakabe or substance of the land itself, and the hukuk-ı tasarrufiye, the right of use and possession, remain with the treasury, while the âşâr ve rüsûmat, the taxes of the land, are granted by the sultan and made vakıf for some purpose. In the second instance, only the right of possession is given, while the rakabe and tithes are retained by the treasury. In the third, both the right of possession and the revenue of the land are assigned, and the rakabe is retained by the beytülmâl.[62]

In the first case, such taxes as the customary dues, âşâr, the fee for transferring the property to another, harc-ı ferağ ve intikal, and the fee received for the purchase of property that falls vacant when a cultivator dies without heirs, bedel-i mahlûlât, all belong to the vakıf. But as the right of use belongs to the beytülmâl, as with all other arâzî-i emiriye-i sırfa, it is given to the cultivator by tapu. In the second two instances,

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[61] *Ahkâm ül-evkaf*, 54.

[62] *Ahkâm ül-evkaf*, 58-9; for a definition of irsâdî vakıf, page 3.

the right of possession belongs to the vakıf, and the cultivators can give the land to their heirs, or transfer it to another, without tapu. Since only the taxes are granted in the first case, this kind of assignment resembles the type of privilege accorded to those who are granted the revenue of mîrî lands, and falls under the regulations governing arâzî-i emiriye. In the other two cases, since the vakıf enjoys the right of possession, the ordinances of the land law are not in effect.[63]

The three types of vakıf-ı gayr-ı sahih mentioned have one factor in common, and that is that they are tahsisat, or assignments of fiscal rights belonging to the beytülmâl. The tahsis is either valid or invalid, depending on whether the revenue assigned is directed towards some purpose whose expense is covered by the treasury.[64] Validity of this kind of grant is also contingent upon whether the rights to the land are given with the permission of the sovereign, and if the person receiving these rights is entitled to them. Failing these conditions the tahsis is gayr-ı sahih and invalid.[65]

It is explicit in Ottoman legislation that taxes belonging to the treasury do not cease when landed property is made vakıf. Lands that are arâzî-i öşriye and haraciye continue to pay the öşür and the harac to the fisc after they have been dedicated as an endowment.[66] The same is true of arâzî-i emiriye which has been assigned to someone as a temlik-i sahih and made vakıf: it is requisite that the âşâr continue to be paid to the beytülmâl.[67] Demanding taxes from evkaf property is therefore a recognized Ottoman practice, but according to the canons of classic Islamic law governing evkaf, this custom is clearly invalid.

Further, the Ottoman practice of alienating revenue for the purpose of making it vakıf is contrary to Hanefî legislation regarding evkaf. For a vakıf to be valid, it is necessary that the ayn or rakabe, the substance of the property itself, be made vakıf; the menfaat, the benefit which accrues from the property in the form of produce or the revenue derived from it can never be made vakıf.[68] This is why vakıf made from mîrî lands is vakf-ı gayr-ı sahih; the rakabe remains with the beytülmâl, while the menfaatler in the form of taxes and right of possession are given to the vakıf.

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[63] *Ahkâm ül-evkaf*, 58-9.

[64] *Ahkâm ül-evkaf*, 59.

[65] See the definitions for irsâdî vakıf, irsâd-ı gayr-ı sahih, and irsâd-ı sahih in A. H. Berki's *Vakfa dair yazılan eserlerle Vakfiye ve benzeri vesikalarda geçen Istılah ve Tâbirler* (Ankara, 1966), 27-8.

[66] *Ahkâm ül-evkaf*, 59.

[67] *Ahkâm ül-evkaf*, 59.

[68] *Ahkâm ül-evkaf*, 2.

This extra-legal form of vakıf was the basic kind of religious foundations found throughout the empire. It was fostered by the Ottomans because of its utility and practicality, and the degree of control the government could exercise over these kinds of grants. Because of their quasi-legality, on legal grounds they could always be revoked. This was not the case for true religious endowments made from the mülk property of harac and öşür lands. Under the law, their essential character was that they were perpetual and inalienable.

It was naturally in the interest of the fiscus to maintain the right of taxation to all lands made vakıf, and taxes which normally accrued to the treasury could never be made vakıf. A fetva ruling on the matter makes this quite clear. Zeyd, a fictive name used in all fetva decisions, asks the following:

> If the tithes which are obtained every year from a village which is mülk are made vakıf, such as the feudal dues (resm-i tapu), the tax on the land (resm-i zemin), the tithes on brides (resm-i arusâne), and the taxes collected by the feudal lord from known criminals (resm-i cürüm ü cinayet), is making these tithes vakıf legally permissible?
> The reply: Olmaz — It is not possible.[69]

Another example of the prohibition against converting state revenue into evkaf is a hypothetical condition where divanî tithes which had been assigned in the same village to a timar fief were set free upon the revision of the financial register. The question posed to the müfti is whether these unassigned tithes could be given to the vakıf, which had been collecting the other half of the taxes on the same village:

> While it has been recorded in a recent financial register that, of the yearly revenue belonging to the village mentioned in the aforesaid decision, one half of the revenue was to pertain to the timar and the other half was to go to the vakıf; and while the aforesaid revenues had been given into the possession of the timar for more than twenty years, nonetheless, according to the revision of the register which set at liberty this revenue, is it permissible for 'Amr, the mütevelli of the vakıf, to take this half of the revenue which is the customary tithe (rüsûm-ı örfiye) after he has obtained the share which is the canonically legal tithe?
> The reply: Making customary tithes vakıf is legally impossible.[70]

These fetvas are illustrations of the fact that no one, on his own initiative, had the right to appropriate state revenue and direct it to a

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[69] Ö. L. Barkan, "Türk-İslâm Toprak Hukuku Tatbikatının Osmanlı İmparatorluğunda Aldığı Şekiller: Malikâne-divânî Sistemi," *Türk-Hukuk ve İktisat Tarihi Mecmuâsı*, 2 (İstanbul, 1939), 148. The same article is also found in *Türkiye'de Toprak Meselesi, Toplu Eserler*, 151-208.

[70] Barkan, 148-9.

religious foundation. The state alone reserved the right to alienate revenue for a pious endowment, as well as for any other purpose.

The preface to the Ottoman land code of 7 ramazan 1274/1857 states that the majority of evkaf throughout the empire consisted of evkaf-ı gayr-ı sahiha, specifically of the first kind, made from the taxes assigned from mîrî arâzî by permission of the sultan. This kind of evkaf fell under the regulations governing mîrî lands. The other two forms of vakf-ı gayr-ı sahih in which the right of possession, or the taxes and the right of possession, were assigned to some religious purpose followed the conditions prescribed by the founder and not the kanunnâme-i arâzî or land law.[71]

It may be said by way of conclusion that the kind of evkaf favoured by the Ottomans and which predominated throughout the empire had little to do with the form of vakıf defined by classic Islamic legislation. If the Ottomans fostered a quasi-legal form of religious foundations, it was because it was in their interest to do so, since strictly legal evkaf not only circumvented the Kuranic prescriptions regarding inheritance, its creation had the effect of taking revenue away from the treasury and placing it in the hands of private individuals as a permanent patrimony.

Fully aware from past experience of the serious threat this institution posed to the treasury, the Ottomans developed a kind of vakıf that favoured the treasury by retaining control of the substance of the land and ultimate right to it. The treasury also demanded taxes from vakıf lands of every kind. In effect, the extended lease of specific taxes and limited property rights to mîrî lands made Ottoman evkaf essentially imperial in character; in truth, the Ottoman land code admitted of no distinction between the vast majority of vakıf lands and mîrî lands, and declared them subject to the land law.[72] Ottoman evkaf was primarily evkaf-ı hümayûn, imperial evkaf, from the standpoint of the state's possession of the land and its right of control. But this practice of alienating only the taxes or right of use of state property was not entirely an Ottoman innovation; it was, rather, a continuation of a convention that was first put into effect under the Rum Selcuks.[73] The prescriptions

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[71] And so the *Düstur*, vol. 1, tab'-ı sâni (İstanbul, 1282/1866), 17-18, describing the two kinds of arâzî-i mevkufe.

[72] *Ahkâm ül-evkaf*, 58-9; *Düstur* I, 17.

[73] Osman Turan, "Le Droit Terrien sous les Seldjoukides de Turquie," 39. The author's remarks on the subject of the Selcuk sultans' manner of leasing state lands are worth quoting here. "Les sources contiennent une foule de renseignements sur les Sultans seldjoukides qui, à diverses occasions, et notamment à leur avènement au trône, concèdent la propriété de terres aux beys qui se sont distingués dans les affaires de l'État. On observe parfois que ces concessions dépassent les limites de plusieurs villages pour atteindre l'étendue d'une province entière. Dans les donations faites sur des terres

of the mîrî land regime were not employed by the Ottomans however until the mid-sixteenth century when the empire had reached its greatest expansion and the central government had achieved the greatest centralization of its power.

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séparées des domaines de l'État, la propriété n'est pas, comme dans l'autre sorte, une propriété impliquant la jouissance absolue; elle consiste simplement dans le fait de se désister au profit de personnes privées des impôts revenant des terres domaniales. Quand, en effet, Ibn Bîbî souligne que chacun des villages fait don ainsi à Kir Fârd, paie autant d'impôt qu'une ville, il veut probablement faire allusion a ce fait. Le montant de la part du *waqf* de ces villages, dont l'origine est une donation de ce genre, est égale à celui payé naguère au détenteur de l'*iqta*' qui, à son tour, est égal à celui payé au propriétaire. D'ailleurs, nous avons noté plus haut que la part de *waqf* des villages constitués *waqf* par Karatay consistait dans leur impôts. Dans l'acte de fondation du village érigé en *waqf* par Giyâseddin Keykhusrev III en 672 au profit de Shaykh Behlûl Dâna de Khorasan, la part n'était autre que 'les impôts anciens et nouveaux et ceux dus au Divan.'''

CHAPTER THREE

ON THE SYSTEM OF İCÂRETEYN AND GEDİK

Religious foundations in Islam derived their income from two sources of revenue, either that which came from landed property, or the kind that came from house property. Müstagallât is the term used to describe revenue-bearing real property, while house property which produces an income is known as müsakkafât. Strictly speaking, müstagallât is a generic term whose root, galle, refers to revenue or yield from property of any kind; specifically, it refers to any property which has been made vakıf in order to produce revenue that is necessary for the functioning of the charitable or religious institution that has been created.[1] The property made vakıf that produces this revenue may consist of immovables, such as gardens, orchards, vineyards, shops, bathhouses, and the like; or, it may comprise movables, such as money made vakıf which is loaned at interest, or the requisite tools of a craft or trade.[2] In an exact sense, movables could not, according to Hanefî rite, be made vakıf; but Ebussuud, aware of their utility, declared for their legality, and liquid assets made vakıf became a common form of religious foundation throughout the Ottoman empire. Müsakkafât refers to property that has a roof, or ceiling, — sakf, and refers to all forms of house property.[3] While religious and charitable institutions drew much of their wealth from landed endowments, the revenue derived from müsakkafât, the rents from houses, shops, and buildings of various kinds formed an important secondary source of income, and this fact is evident from its widespread application.

It has been noted that entire cities and towns came into being from centers of religious foundations. Landed property revenue had been set aside for the creation and support of many of these foundations; but the rent from house property was a major source of their income as well. In many of these nascent Ottoman towns, the rents from the shops in a bedestan, or covered marketplace provided the basis of revenue for religious and eleemosynary institutions.

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[1] *Ahkâm ül-evkaf*, 5. Müstegal müessesât-ı hayriyenin idaresi içün iktiza eden gallât ve varidâtı getirmek üzere vakf edilmiş olan mâldır; cemi müstagallât gelur.

[2] *Ahkâm ül-evkaf*, 5. Gerek ol mâl akâr olsun, bağ, bağçe, han, hamam gibi, ve gerek menkul olsun, istirbahı meşrut olan nukud-ı mevkufe ve gedik tabir olunur, alât-ı lazime-i sinaîye gibi.

[3] *Ahkâm ül-evkaf*, 6. Müsakkaf sakfı, yâni tavanı havi ebniyye'yi müştemil olan müstagaldır; cemi müsakkafât gelur.

In the frontier society of Bithynia and the Balkans, whenever a sultan or leading dignitary wished to construct a mosque, medrese, or tekye, a bedestan was erected in its vicinity. This covered bazaar was usually constructed of some solid, lasting material such as stone which would protect valuable goods from possible damage by fire. Merchants and craftsmen were charged rent for their shop space and protection for their goods that the bedestan offered. These covered markets were to act as permanent trade centers which would attract artisans and merchants, while serving to develop the economy in the locale in which they were founded.[4]

While the shops and dwellings within a bedestan were protected by its stone masonry, much of the roofed property in İstanbul and the major cities of the empire was of wood construction. Many of the houses and shops of the capital and other cities were built in a crowded manner, close upon one another, with little or no open space between them, and were accomodated in many cases with cantilevered bay windows on their upper stories which projected over the narrow streets. Because much of İstanbul consisted of wood frame houses densely constructed in restricted quarters, throughout the city's history conflagration was a common occurrence.

A considerable amount of the house property in İstanbul was müsakkafât whose rents were directed to the support of religious foundations. Whenever a fire occurred, it not only destroyed a part of the city, it also quickly reduced to ruin a source of vakıf revenue. For the most part, religious endowments did not have the requisite capital necessary to repair and reconstruct these damaged buildings.

At first, the area of the destroyed property was rented to individuals by means of icâre-i vahide, or single rent, for the purpose of covering the cost of repairs and recovering lost income to the vakıf. However, there were few takers who found this kind of arrangement acceptable. The difficulty was that evkaf property that was leased by icâre-i vahide single rent conformed to the rule that the immovable estates of a pious foundation could only be rented on a short-term lease, usually not exceeding a period of three years. It was not in the personal or financial interest of the lessee to agree to the condition of renting vakıf property for a period of fixed and brief duration; for, under this arrangement, the only beneficiary of the agreement would have been the religious foundation. Since few were willing to consent to the conditions of limited lease required by canon law, the situation produced a dilemma for the lease of vakıf property: either the müsakkafât would remain in ruins, or the property would have to be leased in a manner which contravened the

[4] See the remarks of İnalcık, *Ottoman Empire: The Classical Age*, 143.

regulations of the şer'-i şerîf. Recourse to the latter alternative was taken in the interest of restoring evkaf roofed property and the city of İstanbul; the decision was made with the justification that "necessity makes lawful that which is prohibited."[5]

For this reason the system of icâreteyn came into being about the year 1591, according to one authority; but it is possible that the practice was current before then.[6] İcâreteyn simply means double rent, and the term applies to the form of rent given to vakıf immovable property destroyed by fire or some other natural disaster. A base rent in the form of a downpayment was paid to the vakıf which was an amount equivalent to the lands or buildings which had been destroyed. This initial payment was known as the icâre-i muaccele.[7] An additional rent amounting to a considerably lesser sum was paid to the vakıf at the end of every year, and this second rent was called the icâre-i müeccele.[8] The new system of rent corresponded to the way in which state lands were leased. The person who wished to acquire the right to work arâzî-i emiriyye also had to make a downpayment called icâre-i muaccele, for which he would receive a title deed known as tapu which acknowledged this right; a yearly rent, icâre-i müeccele, was likewise due on the land. The practice born of leasing mîrî lands was transferred to renting destroyed evkaf immovable property.[9]

This new form of lease by double rent was acceptable to prospective clients because the condition of short-term lease was no longer in effect. The rent agreement was valid for the duration of the renter's life, and the renter was designated the mutasarrıf, or possessor of the property. Once the principle of life tenancy on vakıf immovable property was accepted, it was a short step to allowing the mutasarrıf the right to transfer the tenancy to his heirs, and a special kanun was subsequently formulated for that purpose.[10] Evkaf property acquired the same characteristics as state lands, and took on the main attribute of private property, which is transfer by inheritance. The transfer was not automatic, but subject to approval by the vakıf and the government.

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[5] *Ahkâm ül-evkaf*, 86. Binaenaleyh, buna bir çare olmak üzere müsakkafâtı harab olmuş olubda, imârına kudreti olmıyan ve başka bir suretle dahi imârı mümkin olamıyan müsakkafât-ı mevkufede icâreteyn suretile tasarruf usûlü ihdas olunarak "hacet hususî olsun, umumî olsun, zaruret mezelesine tenzil olunur" ve "zaruretler memnu' olan şeyler mubah kılar" ....

[6] Hâtemî, *Vakıf Kurma Muamelesi*, 79, fn. 40; Köprülü, "Vakıf Müessesesinin Hukukî Mahiyeti ve Tarihî Tekâmülü," *VD* II, 31.

[7] *Ahkâm ül-evkaf*, 87.

[8] *Ahkâm ül-evkaf*, 87.

[9] Hâtemî, 79.

[10] Hâtemî, 80.

The purpose of assigning a second monthly or yearly rent was to serve as a reminder to the mutasarrıf that ultimate ownership of the property belonged to the religious foundation, and not to the lessee. The müeccele recurrent rent left little room for any claim in a court of law that the property leased by the mutasarrıf was in his possession as private ownership by right of prescription, mürûr-i zaman hakkı. The mutasarrıf could not, in other words, argue that the property was his through continued possession over a period of time. In a similar fashion, the müeccele periodical rent served as a break on any claim to private ownership in that payment of the rent by the month or by the year to the mütevelli by the mutasarrıf renewed the rent agreement between the two parties. Further, the icâre-i müeccele periodic rent offset the loss to the vakıf resulting from the right of the mutasarrıf to pass on the tenancy to his descendants. In the event that the mutasarrıf ceased to pay rent to the vakıf for the use of the property, the mütevelli had the authority to rescind the agreement, and give the property to another tenant.[11]

As with mîrî arâzî, the rakabe or substance of icâreteynlû akarât remained inalienable, but the tenant had the right to bequeath the property to his heirs. Specifically, the mutasarrıf had the right to transfer the property in his tenancy to his sons and daughters without a fee.[12] He was not allowed to transfer the property to any other relations, and if he died bilâveled, without leaving children, then the property became mahlûl, vacant, and returned to the vakıf.[13] In spite of these restrictions, the hakk-ı tasarruf, or right of use that was given to the mutasarrıf and his children for life resembled less a right of tenancy than a right of ownership.[14] Over the course of time, the right of prescription, mürûr-i zaman, could be invoked by the mutasarrıf, and icâreteynlû vakıflar could, for a compensation fee known as tâviz bedeli, be taken out of a condition of having been made vakıf, and pass into the full ownership of the mutasarrıf.[15] Further, the mutasarrıf had a right of ownership over the land, known as üst hakkı, so that he had the right to plant or build whatever

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[11] Hâtemî, 80.

[12] *Ahkâm ül-evkaf*, 90. Vefat ettiği takdirce yalnız mutasarrıfının evlâd-ı zükûr ve inâsına bilâ-bedel sev'an intikal eder.

[13] *Ahkâm ül-evkaf*, 90. Mutasarrıf bilâ-veled vefat eder ise, mahlûl ve taraf-ı vakf âid olub, evlâddan maada verese'ye intikal etmez. An exception is made in such cases where transfer to other heirs is specifically stipulated in the vakfiyye foundation charter of the vâkıf founding icâreteynlû müsakkafât and müstagallât-ı mevkufe.

[14] Hâtemî, 80. Vakıf hakkında yerleşmiş esaslara uymayıp zaruret icabı kabul edilen bu icâreteyn usûlünü bugünkü hukuk açısından incelersek, mutasarrıfa bu geniş yetkiler sağlayan hakkın, gerçekte bir 'kiracılık hakkı' olmayıp hemen 'mülkiyet' hakkının sagladığı yetkileri veren bir hak olduğunu ... kabul etmek zorunda kalırız.

[15] Hâtemî, 80-1.

he wished on it, and that property became his.[16] This private property constructed or planted on vakıf land was known as mukata'a.[17] In the course of time, the ownership over these surface properties came to be extended to the land itself.

Much of the immovable property which had become destroyed, whether it was in the form of arable fields, arsa, or roofed property that was in the form of shops or houses, known as müsakkafât, was restored and put into use again by means of icâreteyn. The price religious foundations paid in resorting to this means of lease was considerable, for icâreteyn nullified the conditions essential for dedicated property to be valid. Principally, the system of icâreteyn, by admitting to the practice of life-term lease, paved the way for placing evkaf property in the sphere of private ownership where it could be sold, mortgaged, bequeathed, or leased. Once it was allowed that evkaf property could be subject to the conditions of purchase and sale, the principle that its revenues were to be placed in a condition of untouchability in perpetuity for the sake of the foundation was reduced to nothing.

What is more, in spite of the müeccele monthly or yearly redevance, icâreteyn evkaf property came into the absolute ownership of tenants through their failure to pay this rent. Much of icâreteyn evkaf was transformed into privately owned property through the active collusion of the kadıs and the mütevellis; the former were bribed to lose or destroy evkaf records. Further, while only destroyed vakıf immovables could be leased as icâreteyn, a number of mütevellis found it lucrative to declare evkaf property in good condition as ruined simply from the profit they would obtain from the substantial advance payment.[18]

It was common for the founders of endowments to stipulate in their vakfiyye foundation charters that the property they were to make vakıf be rented in the form of icâreteyn, even though this property was new and in good condition.[19] Other vakfiyye deeds stated that the property

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[16] Hâtemî, 81.

[17] Hâtemî, 81.

[18] *Ahkâm ül-evkaf*, 89. Ez cümle henüz vâkıfın yapdığı hal üzere bulunan kâvgirhan ve hamam gibi müsakkafât-ı ma'mure mütevelliyân ve müteneffizânın menafi'-i zatiyeleri saikasiyle "zaruretler kendü mikdarlarınca takdir olunur" ve "hilâf-ı kiyas sâbit olan gayre makiys-ün-aleyh olamaz" kaide-i fikhiyelerine muhalif olarak icâreteyne tahvil olunmuşdur.

[19] Yediyıldız, "L'Institution du Vaqf," 139. "Et aux XVIII[e] siècle, les administrateurs des vaqfs nouvellement fondés n'ont pu trouver, nous semble-t-il, des gens qui désiraient en louer les biens-fonds sous la forme de 'location valide'. C'est la raison pour laquelle nous constatons, dans les actes de fondation pieuse du XVIII[e] siècle, que les fondateurs stipulaient, dans la plupart des cas, que les biens-fonds de leur vaqf seraient loués sous la forme de 'location à double paiement', bien que ces biens fussent dans un état tout neuf et facilement exploitable."

was to be let at single rent, but if at any time it were to prove incapable of bearing sufficient revenue, then the property should be rented as icâreteyn.[20] It is estimated that the usual form of renting vakıf property in the eighteenth century was by icâreteyn, and not single rent.

The danger that the system of icâreteyn posed to evkaf was the tendency to transform what was an extended lease into a private mukataa. An example that puts this transition in relief is the fate of the foundation created by Fatma binti İbrahim. According to the vakfiyye deed drawn up by her in 1759 Fatma, the daughter of the grand vizir Damad İbrahim Paşa, placed in vakıf two of her properties, one a house, the other a garden situated in Arnavudköy. The revenue of these properties was to be expended for the support of the zâviye of Şeyh Halil Halveti at Edirnekapı and for the maintenance of a vaiz, or preacher. Some twenty five years later, in 1784, this vakıf property was rented by icâreteyn lease by the grand vizir Halil Hamid Paşa. While the foundation deed indicated that the property could be rented by icâre-i vahide or icâreteyn, the latter form of lease was accepted as the more lucrative. Perhaps because of his high position and political connections, Halil Hamid Paşa avoided paying the downpayment for the property, the icâre-i muaccele, and paid only a monthly redevance of 420 akça. The downpayment was necessary to defray the cost of reconstructing a number of buildings on the property which had fallen into ruin.

In order to get him to agree to fulfilling the conditions of icâreteyn lease, the mütevelli of the vakıf had to provide an arrangement that would give Halil Hamid Paşa the right of ownership to all buildings on the property, and the right of leasing the land itself, which would pass to his heirs after his death. In leasing the vakıf property in the form of mukataa, Halil Hamid Paşa enjoyed many of the property rights pertaining to private ownership. It has been pointed out that the conditions of icâreteyn and mukataa resemble more an alienation of the property than a lease, since both gave a perpetual period of tenure to the renter, and the redevance due on the property was minimal to the point of resembling more a tax than a rent fee.[21]

The system of icâreteyn had been born of a crisis — the loss of immovable vakıf property through fire, earthquake, flood, or some other disaster. Another cause for the loss of evkaf revenue that was almost as serious was that of inflation. In the vakfiyye foundation charters of imperial religious foundations, a fixed income had been assigned to each of the intendants and servants depending upon the official's rank and sta-

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[20] Yediyıldız, 139, fn. 2.
[21] Yediyıldız, 141-2.

tion. Due to the fluctuation in Ottoman currency over the course of time, the original sum stipulated in the vakfiyye deed no longer sufficed as a living wage for the servants or for repairs of the religious foundation. It was therefore necessary for the government to look elsewhere for the requisite funds to make up the deficit.

Perhaps beginning in 1826, although possibly before, Sultan Mahmud II sought additional revenue for imperial evkaf through leasing the right of use to various kinds of trade and industry, and to the lands where they were situated. This system, known as gedik, was the leasing of the government's trade monopoly over a certain commodity, or the authorization of tradesmen to practice their trade in a certain area.[22]

In order for a tradesman to have a gedik senedi, or trade license, it was necessary for him to have recourse to the government to obtain a title deed or deed of authorization known as a hüccet. A downpayment for the hüccet was assigned according to the degree of importance of the trade or the guild. In exchange for this initial sum, known as the bedel-i muaccele, the gedik holder was given the right of ownership over his business, or the exclusive rights over some trade, or the right to do business in either a specified or general region. Like any other private property, the gedik could be donated, transferred by sale or inheritance, or given as a pledge for security. Each of these transfers was subject to authorization by the government, which entailed the drafting of another title deed for the new owner, who was required to pay a transfer fee known as harc-ı intikal. The revenues from the transfer, purchase, and sale of these licenses went to increase the salaries of officials and servants employed in imperial religious foundations.

It had been decided by the government to issue a vakıf senedi or vakıf title deed by the Haremeyn and Evkaf ministries, and an assigned amount, the muaccele, was taken from the holders of gediks, as well as a daily sum, the bedel-i müeccele. A number of mülk gediks were transformed into vakıf by assigning fees normally given to government departments or to the stewards of guilds to religious foundations as an additional source of revenue. In the course of time, gedik title deeds were issued by the Evkaf Ministry as operating licenses for every sort of mercantile endeavour.

Gedik senedâts were given for the first time, or acquired by way of transfer from previous owners, to places which engaged in every sort of trade, craft, and commerce such as shops, rooms in inns, public bathhouses, large shops, underground storerooms such as granaries,

[22] The description Pakalın gives of gedik is detailed and informative, and is used here in summary form in the present discussion. See M. Pakalın, *Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü* I (İstanbul, 1946-56), 656-61.

cellars, and cisterns. In addition, gedik licenses were issued by the Evkaf Treasury for vegetable gardens, and were given to the masters of inns, to those in charge of the rooms of inns, to water carriers, to the sellers of pastries and puddings at the entrance to streets and passageways, as well as to other itinerant vendors of goods who stood in one place to sell their wares. They were also issued for fishing weirs, for large passenger boats serving the Bosphorus, for light rowboats, and for fish, mussel, and oyster boats in the region of İstanbul. Moreover, it is recorded that in the Yenikapı district of İstanbul more than one hundred chief craftsmen who worked in a dyehouse which was rented from the vakıf of Sultan Mustafa by means of icâre-i vahide and icâreteyn held their positions by gedik from the Evkaf Ministry.[23]

The widespread application of gedik had been born of a financial crisis in evkaf under the administration of the Evkaf Ministry during the first ten years of its existence. Due to maladministration, and the ignorance of evkaf ministers in handling evkaf affairs, many imperial vakıfs were deprived of revenue. In order to counter this deficit, Mahmud II created patents purchased from the Evkaf Treasury for the privilege of pursuing a trade or craft in a certain place. Mustafa Nuri Paşa, owing to his experience as a former nâzır of the Evkaf Ministry, was in a unique position to comment on the affairs of this department, and the difficulties administering it entailed. His description of the origin of gedik and the examples he gives of its abuse are instructive, and are presented here:

> Owing to the fact that some of the nâzırs were of an avaricious disposition, and since some of them were unaware of the important points of the law, the Evkaf Treasury was brimfull with abuse, such that Sultan Mahmud Han, with the intention of finding income for his vakıfs, created, as it is known, the institution of gedik. One class of these gediks was restricted; for example, gediks were created to the number of one hundred and eighty in İstanbul for the kalaycıs, the artisans who tinned copper vessels, and they were sold to members of this guild. There could not be any more kalaycı shops than this number; it was, therefore, a kind of restricted right or privilege. There was another class which comprised unrestricted gediks, such as those of the kunduracıs, the craftsmen who made shoes in the European style. They were of the kind that were given to whoever requested them, and no one could perform the trade of kunduracı without a gedik; it was, then, a license or permit to work in that craft. These gediks were bought and sold among the guilds, and usually a fixed rent and transfer fee were obtained for them like the müsakkafât of evkaf. Nevertheless, it came about that those who resided as tenants for a number of years in a shop, or who leased a garden, purchased gediks from the Evkaf Treasury without the knowledge of the property owner. Later, when the proprietor had the

[23] Pakalın I, 658.

> intention of either increasing the rent or evicting the renter, since the renter intended to put into execution the claim that the property owner had no right to ask for anything other than the rent that had been established, maintaining that the property was his gedik, the right of both the proprietor and the ancient vakıf to the shops, gardens, and other such property became usurped and confiscated.[24]

The two points that Mustafa Nuri Paşa is emphasizing are that the government was aware of the fact that other kinds of revenue had to be created for imperial evkaf, and that while this was a laudable expedient, it was subject to misuse. It is not altogether surprising to find therefore that the first Evkaf-ı Hümayun Nâzırı was engaged in founding new sources of income for the Imperial Evkaf Treasury. For the purpose of facilitating transport and travel between İstanbul, Galata, and Üsküdar, and primarily as a means of increasing evkaf revenue, large rowboats for passengers and freight, landings, and boathouses were built at Eminönü, Üsküdar, Beşiktaş, Ortaköy, Hasköy, and Balat; the original outlay for this enterprise amounting to some twenty-seven thousand guruş.[25] It is possible this boat service may have been a restricted government monopoly, like the kalaycıs that Mahmud II created. In addition, the surplus of sailcloth manufactured for the tersane-i âmire, the imperial maritime arsenal, was sold in order to secure vakıf income, and a great spinning mill was authorized for construction in Eyüb in 1242/1826.[26] The iplikhane, or spinning mill, was another government-controlled industry created by the Evkaf Treasury with the purpose of increasing vakıf income. Doubtless, one of the principal means by which this was done was through the sale of gedik licenses to members of the guild that operated the mill.

The criticism that Mustafa Nuri Paşa directed against the system of gedik was well placed, and echoed by others. It has been claimed that gedik was responsible for decreasing both the rights and the revenue of a great number of religious foundations, and that the practice of granting government licenses was essentially na-meşru, that is, illegitimate.[27] The worst evil that was common to both icâreteyn and gedik was the duplicity of the lessees.[28] According to one authority, it was the untruthful ac-

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[24] Mustafa Nuri Paşa, *Netayic ül-vukuat* IV (İstanbul 1328/1909), 100.

[25] İbnülemin Mahmut Kemal and Hüseyin Hüsamettin, *Evkaf-ı Hümayûn Nezaretinin Tarihçe-i Teşkilâtı ve Nuzzarın Teracim-i Ahvalı* (İstanbul, 1335/1916), 40, on the ministry of Elhac Yûsuf Efendi.

[26] *Evkaf-ı Hümayûn*; 40.

[27] *Ahkâm ül-evkaf*, 89. Ve bundan takriben yüz elli sene akdem nameşru olarak ihdâs olunmuş olan gedik usûlü evkaf-ı kadimenin hayliden hayli hukuk ve menafini izaa etmiştir.

[28] *Ahkâm ül-evkaf*, 89.

counts they gave in a secretive manner of the icâreteyn vakıf property in their possession that made this property, originally made vakıf in a valid manner and tied to an Islamic institution, become over the course of time tied to an entirely un-Islamic institution.[29]

Both icâreteyn and gedik were convenient methods for creating vakıf revenue; and this they did in the short run. But their prime characteristic, that of long-term lease, worked against the vakıf in the long-run as the lease acquired, through the prevarications of the holder, the appearance of virtual freehold. The effect that icâreteyn and gedik had was to originate sources of revenue at the expense of abrogating the basic principles of vakıf which guaranteed its inviolability. Yet all this was nothing really new; icâreteyn and gedik were no more than extensions of traditional Ottoman policy towards evkaf which, simply stated, was sanctioning that which was illegal in the name of expediency.

By order of a nizamnâme dated 8 Zilhicce 1277/1861, the practice of granting gediks was abolished, and it was forbidden for gedik title deeds to be issued by the Evkaf Treasury, the government offices, or by the courts. The only gediks that were considered valid were those issued or recorded prior to 1247/1831. In order to guarantee that this regulation would be carried out, all records of gediks in court registers and the registers of the Hazine-i Evkaf-ı Hümayûn were to be crossed out, and claims regarding gediks were not to be heard by the lawcourts. All transactions regarding gediks were to be restricted to the İstanbul mahkemesi, and only documents and decisions given by this court were to be recognized. The gediks held by tobacconists, flour dealers, and bakers were an exception to this rule, as the gediks issued between the years 1242/1831 and 1277/1861 were held as valid and any procedure regarding them could be carried out in the local courts where they were situated.[30]

The official reason given for the abolition of gediks was the difficulties that arose from them; foremost among these must have been the kind that Mustafa Nuri Paşa described, a confounding of the rights of property owner with those of the gedik holder. The problem, then, was with the nature of gedik itself, which was, by definition, a gap or a breach in the property of another.

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[29] *Ahkâm ül-evkaf*, 89. Bu ikisinden eşna'i nev zuhur olan bir suistimâldır kı o da vaktile sûret-i sahihede vakf edilerek müessesât-ı islâmiye'ye bihakkın merbut bulunan icâreteynlû müsakkafât ve müstagallât-ı mevkufe biraz zamandanberû sûret-i mahremânede icra edildiği isticar kılınan te'vilât-ı gayr-ı muhikke ile müessesât-ı gayr-ı islâmiye'ye rabt edilmekde olmasıdır.

[30] And thus the *Düstur* 1, tab'-ı sâni (İstanbul, 1282), 129f.

CHAPTER FOUR

RISÂLE-İ KOÇİ BEY

Koçi Bey was a conscript from the Ottoman system of child levy known as devşirme and was probably of Albanian origin. Brought up in the enderûn, the inner service of the sultan's palace, Koçi Bey saw service in the various departments of the imperial seray from the reign of Ahmed I (1603-17) to İbrahim I (1640-48). Upon the accession of Murad IV in 1623 he entered the has odası, the privy chamber of the imperial palace, but with what official ranking it is not clear. He was entrusted as Murad IV's confident, mahrem-i esrâr, and gentleman-in-waiting, musâhib. As a result of the risâle, or treatise on government he presented to Murad IV, Koçi Bey rose to the front ranks of the sultan's musâhibân. The effect the risâle had on the sultan was considerable, for in 1631, the same year that it was presented, Murad IV began to undertake a major reform of the empire. From this time on, Murad personally took control of administering the empire, independent of the counsels of his mother or palace favorites.[1]

The actions the sultan took initially were basically punitive such as forbidding smoking and drinking, executing leaders of rebellious factions of the yeniçeris and sipâhis, and dealing severely with those who took bribes and committed other serious abuses in high office.[2]

Unfortunately, Murad IV's energetic measures and initiatives in the direction of reform were to die with him, as he was succeeded by the feeble-minded İbrahim I in 1640; during his reign palace factionalism and corruption returned, and the empire continued on its downward path. Shortly after İbrahim's accession, Koçi Bey presented to the new sovereign a risâle which was similar, but simpler in content to the one given to Murad IV. Owing to İbrahim's mind and character, it went largely without effect, save for the issuance of a number of decrees which resemble the risâle in style.[3]

One of the causes given for the decline of the empire was the gradual decrease in the size of the sipâhi feudal cavalry force due to the sale of their timar holdings to palace favorites and members of the imperial harem who had little to do with defending the empire. Dirliks, revenue

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[1] M. Çağatay Uluçay, "Koçi Bey," *İslâm Ansiklopedisi* VI, 832-33.
[2] Uluçay "Koçi Bey," 833.
[3] Uluçay "Koçi Bey," 834.

granted as a living and means of support, customarily had been given to those who merited them; that is to say, they were assigned to those who performed military service. But in the time of Murad III (1574-95), they had come to be given in exchange for a bribe by some vizirs, who would confer on their own men vacant timars and zeamets.[4] These members of the slave class who were made the owners of farms by the favor granted by vizirs were incapable of administering their çiftliks well, and this contributed to the decline of former timars and zeamets.[5] Added to this was the system of iltizam, or tax-farming, which was practiced on the has and zeamets of the vizirs, on evkaf lands, and on timars.[6] The right to collect taxes was sold at auction to the highest bidder, who was interested in recovering the sum paid for the iltizam, and whatever profit he could make above and beyond that. Usually the iltizamcı tried to obtain as much as he could from the reaya, since he was given the tax farm for only a year. The conversion of timars and zeamets into private dirliks and iltizams is cited as the principal cause for the decline of the empire.[7]

Added to this, much of the land and revenues pertaining to the treasury had been alienated to high-ranking members of the ruling class as temlik, that is, it was assigned as freehold. To avoid confiscation, many individuals placed their property in vakıf in order to create an inalienable trust for their descendants. This abuse had become extensive enough in the first half of the seventeenth century to become injurious to the imperial treasury. The deficit was responsible, in part, for pay being held in arrears for the ulufeciyân, the paid class of troops, such as the Janissaries, the Sipâhis of the Porte, and the levends, the rank and file of the irregular infantry. A greater part of the Ottoman army by the seventeenth century had come to consist of a salaried infantry, and their lack of pay was a primary cause of rebellion in the capital and the provinces throughout this period.

In one part of the risâle presented to Murad IV, Koçi Bey states that it should be brought to the imperial attention that some vakıfs and temliks that currently existed were contrary to the holy law. While these grants and vakıf holdings appeared outwardly sound, upon closer scrutiny it became apparent that they were a source of loss to the beytülmâl-ı müslimîn. Koçi Bey argued that revenues from villages and lands within the Islamic dominions were used by the beytülmâl to pay the military; as such, they were the right of the warriors, the guzât and

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[4] *Koçi Bey Risâlesi*, annotated by Âli Kemalî Aksüt (İstanbul 1939), 7.
[5] *Risâle*, 7.
[6] *Risâle*, 7.
[7] *Risâle*, 7.

the erbâb-ı mukatele, who legally had fixed expenses; no one else had a right to them.[8]

Koçi Bey then went on to question how many existing vakıfs were legally sound. In his view, the only evkaf legally permitted were hayrat u hasenat; that is, vakıf revenue devoted to some religious or charitable institution, such as a mosque, school, hospital, and the like. The only acceptable evkaf was the kind which had been founded for the sake of the âmme-i müslimîn, the Muslim people. Koçi Bey makes it clear that it was only evkaf of this kind which could be regarded as legally valid:

> And in former times the gazis (warriors) and beys and the beylerbeys (provincial governors) made gaza campaigns for the love of God, may his name be exalted, and the prosperous sublime state conquered a number of lands. And since a great number of warriors were in service to the state and religion, the exalted sultans gave in exchange for these services formal possession (temlik) of some villages and lands from the countries they had conquered. And with the permission of the sultans they made religious and charitable institutions which were beneficial to the Muslim people; they constructed camis, imarets, and zâviyes, and they created vakıf for them. The religious authorities declared lawful the vakıfs of Gazi Evrenos Bey and Turhan Bey and Mihal Oğlu and other such gazis and beys who were champions of Islam fighting in the path of Allah. None are lawful or legitimate aside from these.[9]

In contrast to the period of initial Ottoman expansion where men had been rewarded for conquering a country, Koçi Bey laments that in his time they were rewarded for taking over a village, solely owing to their proximity to the sultan.[10] Simply by virtue of their political influence, a number of men received from the treasury formal possession of lands and villages which had been conquered hundreds of years previously. They then converted these lands into evkaf for the benefit of the founder and his descendants.

In stating that these lands were the right of the warrior class, Koçi Bey was reiterating the classic tenet on the status of conquered lands that had been set down by the caliph Umar at Jabiyah in the year 637, whereby Arab warriors had been allotted fixed pensions from the recently won territories.

Koçi Bey recommended that since the abuse of state lands had become prevalent over the previous two centuries, the best means of reform would be to review all evkaf and temlik holdings which occurred during this period, and return all those that were found to be canonically invalid to the imperial treasury:

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[8] *Risâle*, 55.
[9] *Risâle*, 55.
[10] *Risâle*, 55-6.

> What is worthy for the state and religion is this, that the villages which have been granted as evkaf and temlik for the past two hundred years should be examined with a view to their rights, and those temlik and vakıf villages which are found to be legitimate will remain as they are according to their status, and those that are not lawful, those which are the right of the beytülmâl, will be divided and distributed to the salaried slave class, and the imperial favor will order the creation of many thousands of fiefs. Such an action would be the cause of creating a plentiful number of fiefs, and cause a great abundance of wealth to accrue to the treasury; and thus a general increase and great number of advantages would be witnessed.[11]

True vakıf foundations whose revenues were devoted to religious and eleemosynary institutions would not be affected by such a reform. Evkaf endowments for the support of camis, mescids, and zâviyes would continue to exist, for "... it is not deemed lawful or proper for them to be neglected."[12] Clearly, what Koçi Bey was intending was the abolition of family vakıfs, which profitted only the founder and his descendants and not the Muslim people. Since this kind of evkaf favored only selfish ends, it was to be condemned as hilâf-ı şer' — contrary to holy law.

Koçi Bey estimated that if the revenue of all the temliks and vakıfs which were contrary to şeriat law were collected together and added to the revenues of the royal domain, the amount would create some 50,000 stipends for the salaried slave class. More than 200 million akça would be added to the imperial treasury, permitting the distribution of 20 akça daily to 40,000 members of the military class. The author of the risâle then computed that the income derived from the takeover of illegal evkaf and temliks would provide for a total of 100,000 fiefholders (zuama ve erbâb-ı timar) when added to the already existing fiefs in the empire. Due to this surplus revenue, whenever an imperial campaign occurred it would be adequately provisioned, and there would be no need to draw on income from mîrî lands for finances. Thus, "the campaigns that occurred would be easily borne and revenge would be taken on our enemies, trusting in the faith."[13]

Koçi Bey has given a penetrating analysis of how evkaf had been used by members of the ruling class to the detriment of the imperial treasury and the state. In its main lines, his assessment is essentially correct, but only to a point. Koçi Bey questioned the right of the sultans in the past to grant villages and lands to individuals who did not merit them. He postulates a hypothetical model where the first Ottoman commanders who created the empire by their conquests became rightfully entitled to

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[11] *Risâle*, 56.
[12] *Risâle*, 56.
[13] *Risâle*, 56.

these grants, which they then proceeded to convert into evkaf for the good of the Muslim community.

While it is true that some of the first Ottoman chiefs created charitable and religious institutions from the landed wealth they acquired, it is equally true that they converted much of their wealth into family vakıf for their own benefit and that of their posterity. The vakıfs of Mihal Oğlu, Gazi Evrenos Bey, and Turhan Bey were not exclusively comprised of mescids, imarets, and zâviyes.

Further, it is questionable whether the sultan had the right to alienate conquered lands to individuals as free and unencumbered private property, as temlik which could then be converted into vakıf. Strictly speaking, according to Islamic law he could not.[14] The entire feudal cavalry class, the timarlı sipâhis, did not enjoy outright ownership of the lands and villages in which they resided; they merely held the right to collect the revenues of their villages with the provision that they performed military service. While this right normally devolved from father to son, it was not hereditary, and was contingent upon the son assuming military duties. In addition, the fief was revocable upon failure to perform military service. While members of the bureaucracy, the ulema, the palace service, and the military derived their income from imperial revenues, these revenues were in the form of mukataa; they were the right to collect the taxes of a district as a form of salary. In theory, members of the ruling class could not possess the lands and villages under their jurisdiction outright. Even the malikânes, or tax farms, which were granted for life, were not free property — although they were regarded as such by their holders. But the state's claim to these provisionally alienated sources of imperial revenue remained unenforceable as long as the central government was weak; and the empire experienced an almost unbroken succession of weak sultans from the death of Süleyman I to the accession of Mahmud II.

More, the distinction that Koçi Bey makes between members of the nascent Ottoman military aristocracy who he feels were entitled to these grants, and political favorites of the sultan who were not, is a differentiation that is unsound. All temliks which comprised the alienation of conquered land as private property were invalid, and should have been abolished. Carried to its logical conclusion, this principle would have entailed the abolition of a considerable amount of evkaf throughout the empire, whether vakf-ı hayrî or vakf-ı ehlî, since the chief dignitaries of state had converted much of their wealth into endowments for religious and

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[14] Ö. L. Barkan, "Malikâne-dîvanî sistemi," *Türk Hukuk ve İktisat Tarihi Mecmuâsı* sayı 2 (İstanbul, 1939), 120.

charitable foundations. The fact they dedicated their property as charitable evkaf and not family vakıf did not increase its legitimacy, as Koçi Bey would have it; the legality of the evkaf is not in question, but that of temlik. In truth, the only sound evkaf which could have been permitted on an extensive scale would have been evkaf from the havas-ı hümayun, the royal domain. As the private holdings of the sultan these lands and villages could perhaps have been made vakıf.

Koçi Bey's criticism of the vakıf system was not limited to the granting of temliks from state lands and the creation of family evkaf; he brought to the imperial attention as well the excessive advantages pertaining to the office of the Dârüssaade Ağası. As nâzır, or general inspector of the imperial evkaf, the Dârüssaade Ağası had a great number of mütevellis under his jurisdiction. When the office of mütevelli became vacant, the Dârüssaade Ağası would fill the post with his own appointee, who usually bought the office. Koçi Bey complains that corruption was rife within the imperial evkaf because the mütevelliships were sold at a profit, and the mütevellis would then in turn sell the right to collect the revenues of vakıf villages: "Every cami has a mütevelli, and the Dârüssaade Ağası gives this mütevelliship; and to whomever he desires, this mütevelli sells the villages of the vakıf."[15]

When a vakıf village was sold as an iltizam, it was auctioned to the mültezim tax farmers at twice the estimated value. Koçi Bey states that if a village were sold for 100,000 akça, 50,000 akça would be taken by the Dârüssaade Ağası as boot price.[16] Çizme pahası or "boot price" was supposed to be no more than a small emolument granted to the mütevellis and nâzırs for the service of overseeing and inspecting the vakıf.[17] But under the Dârüssaade Ağası it was to become a pretext for unlimited aggrandizement.

The net accrual of vakıf revenues after expenses had been met for the salaries of the foundation's staff, provisions, and repairs was known as zâide.[18] According to the conditions laid down by the founder, any surplus in revenue was to be kept by the vakıf to be expended on needed repairs, or the money was to be employed in purchasing additional vakıf property. With the evkaf under the supervision of the Dârüssaade Ağası, however, the zâide did not remain with the particular vakıf under the control of its mütevelli, but was turned over to the chief ağa for his own

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[15] *Risâle*, 123.

[16] *Risâle*, 124.

[17] Mouradgea D'Ohsson, *Tableau général de l'Empire othoman* II (Paris, 1788), 537.

[18] Â. H. Berki, *Vakfa dair yazılan eserlerle vakfiye ve benzeri vesikalarda geçen ıstılah ve tâbirler* (Ankara 1966), 60.

profit. At the beginning of every year an accountant inspected the records of the vakıfs under his jurisdiction, and if it were found that there was an increase in the revenues, that increase was brought and handed over to the Dârüssaade Ağası. Koçi Bey notes that when the zevaid (pl. of zâide) was collected together from the various imperial evkaf in the empire, the total in one year amounted to more than ten million akça. The zevaid of the Haremeyn evkaf amounted in one year to 2,400,000 akça; an amount which was also directly under the control of the Dârüssaade Ağası.[19] From the vakıfs under the supervision of the chief ağa, who had seventy mütevellis under his direction, the total amount of the zevaid in one year amounted to 1,300,000 akça.[20] Much of this surplus wealth did not, unfortunately, go to the purposes for which it was originally intended; and as long as the Dârüssaade Ağası was in control of the Evkaf and Haremeyn Ministry, which was well into the nineteenth century, misappropriation of evkaf funds was common.

As Koçi Bey passed most of his life in the Enderûn, the inner service of the imperial palace, he saw duty in many of the various departments of the seray. During his long career, he had the opportunity to observe the business of the highest functionaries of state, and became well-acquainted with their character and conduct. In citing the figures he gives for the zevaid of imperial evkaf under the administration of the Dârüssaade Ağası, it is Koçi Bey's intention to inform the sovereign of the widespread abuse prevalent in the management of vakıf revenues, and the considerable yearly losses that resulted in this maladministration. Koçi Bey criticized a system of administration which allowed vast sums of money to be deployed year after year into the pockets of administrators who should have been performing their service gratis for the love of God. It is interesting to observe the result of the attempt to centralize imperial evkaf administration. The object in granting to the Dârüssaade Ağası the degree of control and supervision he came to possess over selâtin evkaf was to put an end to local abuse committed by individual nâzırs and mütevellis; the effect, however, was to increase corruption on a scale which made the provincial peccadilloes of these administrators pale by comparison.

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[19] *Risâle*, 124.
[20] *Risâle*, 81-2.

CHAPTER FIVE

THE FOUNDATIONS OF REFORM

The system of tax farming, or iltizam, was a method of collecting revenue for the state and for religious foundations which was originated as a financial expedient by Mehmet II (1451-83); but due to the oppressive burden it placed on the peasantry, the system lasted only a little over a century, and was discontinued during the reign of Sultan Mustafa II (1695-1703). In the year 1695 iltizams were transformed into a less abusive form of tenancy under the administration of grand vizir Elmas Mehmed Paşa, a tenancy known as malikâne, or life farm.[1]

The malikâne was more advantageous than the iltizam because the tenancy was not for a year, but for life, and was therefore a less desperate method of obtaining revenue. The mültezim tax farmer was required to recover whatever he had bid at auction for the iltizam, and substantially more if he were to derive a profit from his investment; since the contract was only for a year, it mattered little to the mültezim that the peasantry was ruined in the process.[2]

Unlike the iltizam, which was held upon a single advance sum paid to the treasury, the malikâne required an initial downpayment (mâl-ı muaccele), followed by a yearly minimal redevance (mâl-ı müeccele). Although the holder of a malikâne enjoyed the right of tenancy for life, upon his death this right reverted to the state, which indicated the provisional nature of the malikâne as a lease from the government.

Mustafa II had contemplated extending the regime of malikânes to all the evkaf of his family, but certain political considerations, such as the entrenched self-interest of high officials who were mültezims for these vakıfs, prevented him from carrying out this plan; he therefore "con-

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[1] I. Mouradgea d'Ohsson, *Tableau général de l'Empire othoman*, II, 532-3.

[2] Mehmet Genç, "Osmanlı Maliyesinde Malikâne Sistemi," *Türkiye İktisat Semineri*, ed. Osman Okyar (Ankara, 1975), 234-5. Genç has pointed out the negative effects of the iltizam system, and takes note of the fact that the yearly tax farms were awarded to non-Muslim money-changers, who, by their technical knowledge of taxation and their ability at tax collection, became an increasingly important class in the Ottoman financial system; their only interest, however, was to reap the greatest sum possible in the shortest amount of time. The malikâne, or life-tenancy tax farm, more resembled the Ottoman timar system, long since fallen into desuetude, since it created the same protective conditions for the land, the revenue, and peasantry. These life-tenancy tax farms of state lands were given to ranking members of the military class, as the timars had been, and since these grants were considered by the askerî class as their own fiefs, it was in their interest to maintain them, and to treat the peasantry equitably.

tented himself with repressing the spirit of depredation which had become nearly general among the annual farms.''[3]

The possessor of a malikâne had the right to cede the farm to his male heirs. The transfer was not automatic, but had to be authorized by the treasury, and the inherited title deed required the attachment of the seals of the two kaziaskers in office to be valid. These transfers, moreover, were not made entirely gratis, for at each conveyance the grand vizir and the finance minister had considerable rights over them known as kalemiyye, or office fees. As the defterdar had the authority to issue deeds of investiture for the malikânes, he was generously rewarded for performing this service, since conveying a life farm to one's son was not a necessary prerogative of the holder.[4]

The malikâne regime instituted during the reign of Mustafa II continued in its essential lines throughout the first half of the eighteenth century, and the distribution of these life farms remained under the office of the Dârüssaade Ağası. Sultan Ahmet III (1703-30) followed in his predecessor's footsteps in leaving the control of evkaf affairs in the hands of the chief ağa of the palace, and sultans Mahmud I (1730-54) and Osman III (1754-57) contented themselves with the same situation.[5]

The first tentative attempt at reforming evkaf administration occurred during the reign of Sultan Mustafa III (1757-74). The major reform this sultan effected through his grand vizir Ragıb Mehmed Paşa was to transfer the responsibility for collecting evkaf revenue from the Dârüssaade Ağası to the defterdar, the chief minister of finance.[6] The revolutionary change put an end to a number of flagrant abuses. The Dârüssaade Ağası had customarily appointed as his mültezims the highest bidders for the right to collect evkaf revenue, normally to his own advantage and profit. This practice came to an end, and many of the unsuitable individuals the chief ağa had appointed as mütevellis to imperial evkaf such as the teberdarlar, the imperial halberdiers, and the çuhadar ağası or imperial footman, were deprived of their administration and mukataats.[7] With the increase in revenue which resulted from this reform, the Dârüssaade Ağa and his staff were reimbursed for the loss of their duties and the lucrative perquisites attached to them. Shortly after the change in administration, the Haremeyn evkaf mukataas were sold to buyers at the discretion of the defterdar, and the advance revenue

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[3] *Tableau général* II, 535.
[4] *Tableau général* II, 534.
[5] *Tableau général* II, 535.
[6] *Tableau général* II, 535-6; Bekir Sitki Baykal, ''Mustafa III,'' *İslâm Ansiklopedisi* VIII, 700.
[7] Baykal, ''Mustafa III,'' 700.

received from these iltizams was taken directly into the Haremeyn treasury. Further, to ensure its proper allocation, the annual monetary gift sent to Mekka by the sultans for distribution to the poor (sürre mürettebatı) was apportioned by the Haremeyn treasury and handed over to the sürre emins who delivered the gift personally to Mekka to ensure its safe arrival.[8]

In other areas Mustafa III was active in improving the conditions of the empire and in creating a number of charitable works. As a result of the earthquake which occurred in the year 1766, a number of camis and other buildings in İstanbul and other parts of the country were destroyed. For their repair, or when necessary their complete renovation, the sultan expended the considerable sum of 220,000 kese, or eleven million akça. In order to ensure İstanbul with an adequate supply of water, he forbade the opening of new bathhouses in the city to limit the use of water; in addition, he either had repaired or entirely rebuilt the water conduits which had fallen into ruin because of earthquakes.[9]

Unfortunately, the reforms of Sultan Mustafa III were to die with him. Control of vakıf administration was again reverted to the Dârüssaade Ağa commencing with the reign of Sultan Abdülhamid I (1774-89).[10] The reason for this reversal was the new sultan's inexperience in the affairs of government — some fifty years of his life had been spent in palace confinement — and the necessity of his having to deal with, and to placate, those who held the effective reigns of power, such as the chief ağa. With Abdülhamid's accession, the Dârüssaade Ağa continued to enjoy the excessive fees he derived from his office, primarily those obtained from the vacancy or transfer of imperial evkaf property which was farmed as malikâne to the highest bidder.

In spite of this inauspicious beginning, the reign of Abdülhamid I marks the foundation of the Evkaf-ı Hümayûn Nezareti, a ministry which was to reach its fullest development under Sultan Mahmud II in the nineteenth century.[11] While the administration of haremeyn and selâtin evkaf had reverted to the chief ağa, Abdülhamid took the means to create a separate organization for his own imperial evkaf. Because of the Dârüssaade Ağası's influence in vakıf affairs, the sultan appointed him to the nezaret of the Hamidiye evkaf, and gave the mütevelli kaimmakamlığı (delegated administratorship) to the Dârüssaade Yazıcısı.[12]

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[8] Baykal, "Mustafa III," 700.
[9] Baykal, "Mustafa III," 703.
[10] *Tableau général* II, 536.
[11] *Evkaf-ı Hümayûn*, 21.
[12] *Evkaf-ı Hümayûn*, 19.

This state of affairs was soon rectified, however.

In the year 1775 the sultan had a special office constructed for the management of the Hamidiye evkaf near his imaret, which consisted of three separate departments.[13] The first of these was the mütevelli kaimmakamlığı, which was authorized to act solely in the general administration of the Hamidiye evkaf, and the independence of this new office was further strengthened by an imperial edict. The second department was the evkaf kitabeti, which recorded all evkaf income and expenses, and inspected the accounts of the revenue collectors. In addition, the department administered the collection and expenditure of revenues derived from Hamidiye evkaf property holdings. The third office was known as the ruznamçe kitabeti, the memuriyet of the secretary in charge of financial transactions. The ruznamçe kâtibi was responsible for recording the daily expenditures of the vakıf and examining the daily expenses of the vekils, the agents of the foundation.[14]

Upon the establishment of this independent administration, Elhac Mustafa Ağa, the inspector of the imperial stables, was appointed to the mütevelli kaimmakamlığı; Hace Elseyyid Şerîf Mehmed Efendi, the chief scribe of the finance ministry, took the office of evkaf kitabeti, while Hace Elseyyid Reşid Ahmed Efendi, the treasurer for the accountancy of Haremeyn evkaf, was assigned to the Ruznamçe Kitabeti.[15]

Although a separate administration for the Hamidiye evkaf had been created with the introduction of these three new offices, because appointments to them were made upon the recommendation of the Dârüssaade Ağa, the Hamidiye evkafı kaimmakamlığı came under the control of the Haremeyn Nezareti and simply became a special branch of this ministry.[16]

Nevertheless, because of the new administration's relative degree of autonomy as a separate ministry, it was less subject to direct interference by the Dârüssaade Ağas, and due to this semi-independent status the Hamidiye evkafı kaimmakamlığı was administered relatively well. When the beneficent effects of sound management became apparent, the evkaf of a number of chief officials were added to the Hamidiye evkaf ministry. These additions were known as mulhakat to distinguish them from the corpus of Hamidiye holdings. As a result of this increase, the new ministry came to have the title of Evkaf-ı Hamidiye Kaimmakamlığı ve Mulhakatı.[17] The vakıfs annexed to the new nezaret were the evkaf of the

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[13] *Evkaf-ı Hümayûn*, 19.
[14] *Evkaf-ı Hümayûn*, 20.
[15] *Evkaf-ı Hümayûn*, 20.
[16] *Evkaf-ı Hümayûn*, 20.
[17] *Evkaf-ı Hümayûn*, 21.

women of the imperial harem; the evkaf of Abdüllah Ağa, the bostancıbaşı; the evkaf holdings of Hâfız Mustafa Ağa, the chief of the imperial chancery, and the vakıfs of a number of other high ranking individuals.[18]

This semi-autonomous status of the Hamidiye nezareti continued throughout the reign of Abdülhamid I. But upon that sultan's death in 1789 however, Dârüssaade Ağası İdris Ağa, basing himself on changes he had made in the administration of Hamidiye evkaf, successfully deposed the acting mütevelli kaimmakamı Mehmed Efendi, who was the chief scribe for imperial expenditures. He was replaced by Yazıcı Arnavud Mehmed Efendi, İdris Ağa's own scribe, who was also mütevelli of the Lâleli evkaf. Yazıcı Mehmed Efendi retained his position as administrator of the Lâleli evkaf, the evkaf of Sultan Mustafa III, and from this time on the administrations for the Lâleli and Hamidiye evkafı became unified.[19]

Throughout the reign of Abdülhamid I's successor, Sultan Selim III (1789-1807), administration for the Hamidiye and Lâleli evkaf with their appendices remained in the charge of the Dârüssaade Ağaları. But due to their corruption and peculation of vakıf revenues, a number of these chief ağas and their subalterns were dismissed from office, and were either exiled or executed.[20]

Because of the power of high palace officials such as the Dârüssaade Ağa, and the relative weakness of sultans Abdülhamid I and Selim III, any attempts at reforming the various branches of Ottoman administration were frustrated; nevertheless, in creating a separate ministry for his own imperial evkaf, Abdülhamid I had laid the foundation for the Evkaf-ı Hümayûn Nezareti developed by Sultan Mahmud II. Mahmud successfully continued the work of his predecessors in building the number of evkaf under his direct control. He could achieve this goal where others had failed because of his ability to restore absolute rule to the Ottoman sultanate.

The main lesson that was learned from the reign of Selim III was that reform of the Ottoman empire could not be immediately and directly effected by the ruling sultan. Selim III had attempted reform along traditional lines primarily in the military, but also in the administrative, economic, and social sphere as well. His efforts at introducing change into the established order produced a violent reaction on the part of the military and ulema religious class, who saw in Selim's reforms a direct threat to their status and entrenched interests. The result of direct in-

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[18] *Evkaf-ı Hümayûn*, 21.
[19] *Evkaf-ı Hümayûn*, 22.
[20] *Evkaf-ı Hümayûn*, 23-4.

tervention in the status quo by the sultan led to revolution, and ultimately to Selim's deposition in May of 1807 and assassination in the following year.[21]

Selim III's successor Mahmud II (1808-39) could appreciate the weakness of the Ottoman sultanate from the ill-starred fortunes of his predecessor, and was well aware that his own fate depended on conciliating those elements of the ruling class which wielded actual power. It is understandable why he let the first eighteen years of his rule pass before acting against the main opponents of reform, the Janissaries.[22] This first period of Mahmud's rule was spent in creating a proper climate among members of the ruling class for reform: the sultan was aware that the way to lasting reform was paved through a policy of shrewd diplomacy with those in power, and not by direct attempts to alter the existing system. Mahmud's statesmanship succeeded in effecting a substantial reform of the empire, and setting the stage for absolutism during the latter years of his reign.

The sultan's slow and cautious policy is reflected in the steps he took at reforming the institution of evkaf. Initially, Mahmud set about to build on the foundation created by his father, Abdülhamid I. The first move in this direction was to put an end to the period of anarchy under the Dârüssaade Ağa which had prevailed throughout the reign of Selim III. Shortly after Selim's accession, dating from 1789 the Dârüssaade Ağa had placed his own chief scribe in the office of mütevelli kaimmakamı for the Hamidiye evkaf, and the Dârüssaade Yazıcıları retained their control of this position without interruption until 1809.[23]

Their tenure in office came to an end when Mahmud united the Hamidiye evkafı to that of his own which he formed in 1809, and placed at the head of this new vakıf administration his own appointee, Cizyedarzâde Mehmed Tahir Efendi, who became mütevelli kaimmakamı of this new ministry.[24]

At the end of 1813 Mahmud II introduced a fundamental change in the administration of imperial evkaf. In that year the minister for the Imperial Mint (Zarbhane-i Âmire) Elseyyid İbrahim Sarım Efendi was appointed to the mütevelli kaimmakamlığı. It is from this time that the

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[21] A. Cevat Eren, "Selim III," *İslâm Ansiklopedisi* X, 441-7.

[22] Enver Ziya Karal, "Mahmud II," *İslâm Ansiklopedisi* VII, 165-70.

[23] *Evkaf-ı Hümayûn*, 22f. The one instance when the Dârüssaade Yazıcıları were not appointed to this office was when Valide Sultan Kethudası Giridli Yûsuf Ağa was designated mütevelli kaimmakamı for the Laleli and Hamidiye evkafı from Şevval 1216/1801 to Cemaziyülâhir 1221/1806, at which time he was dismissed and executed upon the death of the Valide Sultan. See page 24.

[24] *Evkaf-ı Hümayûn*, 24.

administration of the Hamidiye and Mahmudiye evkafı was given to the Zarbhane-i Âmire Nezareti.[25]

By the year 1825 the Mahmudiye evkaf ministry had exceeded fifty offices. As these evkaf increased in size and importance with those of the Hamidiye and its appendices, in 1826 upon the destruction of the Janissary corps, the evkaf-ı mahsuse of the Janissary Ağa and those of the Sakbanbaşı Ağası were added to the Mahmudiye mütevelli kaimmakamlığı, which thereby gained in further importance.[26]

Owing to the subsequent expansion of imperial evkaf with the abolition of the Janissaries, the administration of these vast holdings came to be too arduous a task for the Ministry of the Imperial Mint. Therefore, with the issue of an imperial edict in 1826, the Hamidiye and Mahmudiye evkafı were removed from the jurisdiction of the Zarbhane-i Âmire, and a separate ministry was formed with the title of Evkaf-ı Hümayûn Nezaret-i Celîlesi. The former Zarbhane Nâzırı and mütevelli kaimmakamı Elhac Yûsuf Efendi was appointed as the first Evkaf-ı Hümayûn Nâzırı.[27]

Until the year 1826, the Ministry for Imperial Evkaf had been an inalienable trust of the Dârüssaade Ağaları, but by amending the conditions of the founder by which the ministry was organized, Mahmud II caused the nezarets of the Hamidiye and Mahmudiye evkafı to be taken from Dârüssaade Ağası Uzun Abdullah Ağa.[28]

The nineteenth century Ottoman historian Ahmed Lütfî has given an informative description of the five ministries in charge of imperial evkaf and the vakıf holdings of the rical, the chief dignitaries of the empire. These five separate nezarets continued to function independently until 1826, but after that date they were incorporated into the expanding Evkaf-ı Hümayûn Nezareti:

> With respect to the former administration of all evkaf, it is necessary to give some information on how it was administered, and the manner in which this occurred. The administration of evkaf was divided into five parts. The first division was evkaf tied to the Haremeyn and the vakıfs of such mosques as Ayasofya, Sultan Ahmed, Nur-ı Osmanî, Yeni Cami, Şehzade Sultan Mehmed, and in Üsküdar the mosques of Gülnûş Valide and Kösem Valide, and Çinilî and Âtik Valide. As to the manner of their administration, it was under the Dârüssaade Ağası, and the central administration at the top belonged to the Zarbhane-i Âmire, and before this it was the place of the office of the Evkaf Müffetişi, which has been abolished. In this office there was an official with the name of Haremeyn Müfettişi, and there were

[25] *Evkaf-ı Hümayûn*, 25.
[26] *Evkaf-ı Hümayûn*, 26.
[27] *Evkaf-ı Hümayûn*, 26. See *Cevdet Evkaf* No. 6835, 21 S 1242/1827.
[28] *Evkaf-ı Hümayûn*, 26-7.

offices which consisted of scribes such as the Sergi Halifesi (clerk of the pay office) and the Viznedâr Başı (chief treasurer) in the Haremeyn treasury.

The second class was the vezir nezareti. With the evkaf of Sultan Mehmed II, Sultan Süleyman, Sultan Selim, they and their added dependencies were under the nezarets of the grand vizirs, and a member of the ulema with the name of vizir müfettişi administered the affairs of these evkaf.

The third class was the nezaret of the Şeyhülislâm. The evkaf of Sultan Bayezid and Sultan Ahmed were under the nezarets of the Şeyhülislâm, and their administration belonged to the office of the imaret of Sultan Bayezid.

The fourth class belonged to the Zarbhane Ümenası Nezareti. The evkaf, mulhakat, and mukataat of the Hamidiye, Lâleli, Selimiye, Mehrşah Valide and deceased Mahmud II foundations were administered by the Imperial Mint.

The fifth class belonged to the nezaret of the İstanbul kadıları. With the founding of the Evkaf Nezareti, apart from the Haremeyn, the abovementioned nezarets were united and transferred to one administration.

Subsequently, with the founding of the Haremeyn Nezareti, Hacı Edhem Efendi was appointed as an official from the rical class, and after the year 1834 all of these nezarets were united in the time of Hasib Paşa, and were thereafter administered in this fashion.[29]

The ministries of the great men of state, the Dârüssaade Ağa, the Şeyhülislâm, the Grand Vizir, and the İstanbul kadıları had been put to an end, and their evkaf placed under the control of Mahmud's Imperial Evkaf Ministry in the years following 1826. There had been good reason for the sultan's waiting to act until then. After the elimination of the Janissaries, the sultan was in a position to move against the leading men of the empire, and deprive them of their independent economic base, the evkaf under their jurisdiction. The ministries of the Bâbüssaade Ağası, the Reisülküttâb, the Bostancıbaşı, the Saray Ağası, and others were to follow, until the major evkaf of all the chief dignitaries of state had been taken away from them and transferred to the Evkaf-ı Hümayûn Nezareti under Mahmud II's orders.[30]

At the time of its foundation, the Evkaf-ı Hümayûn Nezareti was separated into three distinct departments, or daire: the kesedarlık, that is, the office of the treasurer; the zimmet halifeliği, or scribal office in charge of debts; and the sergi halifeliği, the chief clerk of the pay office. The nâzır in charge of these three offices was given a salary of 10,000 guruş, and his officials were also assigned fixed salaries: the kesedar received 1,000 guruş; the zimmet halifesi 800 guruş; and the sergi halifesi 500 guruş monthly. In addition, a first and second staff were appointed

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[29] Ahmed Lûtfi, *Tarih-i Devlet-i Osmaniye* I (İstanbul, 1292/1875), 205-06.
[30] *Evkaf-ı Hümayûn*, 28.

to each of the departments, which consisted of a secretary and a number of assistants who were provided with an adequate salary.[31]

The administration of the kesedarlık or treasury was charged with recording all official memoranda, communiques, and judicial decrees pertaining to evkaf under the Imperial Evkaf Ministry. To this office was appointed Ekinlü Elseyyid Mehmed Şevki Efendi.[32]

The zimmet halifeliği, the office of receiver general, was intrusted with inspecting accounts and obtaining the revenues of evkaf holdings. In addition, the office was charged with making notes of the debits of rents and the advance payments for iltizams (bedelat-ı iltizamiyye), and the securities received by bankers. The first zimmet halifesi was Mehmed Arif Efendi.[33]

The sergi halifesi, or paymaster, was responsible for obtaining revenues which came into the evkaf treasury, and paying all vakıf expenses pertaining to the treasury; this officer also oversaw daily transactions concerning evkaf, and ensured a general balance of accounts. The first sergi halifesi was Ahmet İzzet Efendi.[34]

Increasingly, the control of evkaf appointments or mütevelliships for various ministries came under the Imperial Evkaf Ministry, and the ministries themselves became annexed to the Evkaf-ı Hümayûn Nezareti. In Şevval 1243/1828, following the removal from office of Bâbüssaade Ağası Osman Ağa, the nezaret of the Bâbüssaade Ağaları was taken over by the Ministry for Imperial Evkaf. In Receb 1246/1830 the administration of evkaf which had been under the nezarets of the Bostancıbaşı (Commander of the Imperial Guards), the Topçıbaşı (Master-General of Artillery), the Hazinedarbaşı (the second assistant to the Dârüssaade Ağası), the Kilârcıbaşı (the Head Butler in the imperial palace), and the Saray-ı Cedid Ağaları (The Ağas of Topkapı Sarayı palace) all became tied to the Evkaf-ı Hümayûn Nezareti.[35]

Upon the takeover of these ministries, Mahmud II raised the salaries of the Evkaf Ministry's officials commensurate with their new responsibilities. The salary of the nâzırs was raised to 15,000 guruş, that of the treasurer to 1200, the receiver-general was granted 1000, and the paymaster was given 650 guruş.[36]

In Rebiyülevvel of 1247/1831 the evkaf under the nezaret of the Defterdar-ı Şıkk-ı Evvel (the Minister of Finance), the Reisülküttâb (the

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[31] *Evkaf-ı Hümayûn*, 27.
[32] *Evkaf-ı Hümayûn*, 27.
[33] *Evkaf-ı Hümayûn*, 27.
[34] *Evkaf-ı Hümayûn*, 27.
[35] *Evkaf-ı Hümayûn*, 28.
[36] *Evkaf-ı Hümayûn*, 28.

Minister of Foreign Affairs), the chief kadıs of İstanbul, Galata, Eyüb, and Üsküdar, the Haremeyn Müfettişi (Inspector for Haremeyn Evkaf) and the Saray Ağası (the Gentleman Attendant at the Palace) were taken over by Evkaf-ı Hümayûn Nezareti, the total number of which amounted to 632 evkaf properties.[37] Shortly thereafter, in Receb of 1247/1831, the evkaf under the administration of the Kapudan paşa (the High Admiral and Minister of the Marine) and the Çavuş Başı (the Chief of the corps of Halberdiers of the Sultan's bodyguard) were transferred to the Imperial Ministry, followed in Zilkâde of 1247/1832 by the annexation of the nezaret of the Sadr-ı Âli, the Grand Vizir.[38] The takeover of these holdings meant an extraordinary expansion in the work of the new administration.

The three departments of the Imperial Evkaf Ministry were unable to deal with this sudden increase of evkaf property, and consequently three more departments were introduced in Zilkâde of 1247/1832. These were a tahrirat baş kâtibi, or chief scribe in charge of documents and despatches; a mulhakat gedikler kitabeti, or office for the registration of leasehold property; and a ruznamçecilik, an office which was in charge of financial transactions. The two secretaries were assigned a salary of 750 guruş per month respectively, while the ruznamçeci was given a stipend of 700 guruş.[39]

With the rapid increase in evkaf affairs for the Imperial Evkaf Ministry, it became apparent that a larger administrative building was needed to house the additional staff. Therefore in the region of the old Zarbhane-i Âmire a number of shops for matmakers and carpenters were abolished, and in their stead was erected a seventeen room administrative office. The building itself was completed and furnished in Cemaziyülevvel of 1248/1832, and in Receb of 1248/1832 the Evkaf Ministry was transferred there.[40]

The chief scribes of the new departments were officials charged with aiding the treasurer in the business of record keeping and in inspecting the accounts of evkaf which had been recently taken over. The chief secretaries were also responsible for recording the title deeds for the transfer of evkaf property (ferağ ve intikal temessükatları), and for recording the transfer of vacant (mahlûl) evkaf holdings. They likewise assisted the receiver general by keeping record of the transfer of vacant property and the collection of taxes from the mukataa of evkaf leasehold property. The ruznamçeci acted as paymaster in paying the salaries of

[37] *Evkaf-ı Hümayûn*, 28.
[38] *Evkaf-ı Hümayûn*, 28-9.
[39] *Evkaf-ı Hümayûn*, 29.
[40] *Evkaf-ı Hümayûn*, 29.

these officials, and also met expenses for the repair and furnishing of all religious and charitable foundations. Each of these new officials were assigned three assistants to their staffs to aid them in their work.[41]

On 1 Muharrem of 1249/1833 Elseyyid Mehmed Emin Ağa was appointed muavin or assistant director and kaimmakam of the Haremeyn Nezareti. The move was an important one. In his capacity as kaimmakam, Mehmed Emin Ağa was second in command to Dârüssaade Ağası Uzun Abdullah Ağa, the minister for the Haremeyn evkaf. By placing Emin Ağa in this position, Mahmud II was acting in a shrewd manner, for he transferred much of the important business of this ministry to a trusted lieutenant who was not only reliable, but well-qualified; Emin Ağa held the position of Haseki Başı, Receiver General of the estates of the sacred cities of Mekka and Medina.[42]

For a time, the Dârüssaade Ağa continued to be the administrator of the Haremeyn evkaf. But, since other concerns prevented him from attending to the affairs of this office,—and, it is suspected, since he simply could not be trusted,—this ministry was left to the charge of the Chief Ağa in name only. On 1 Muharrem 1250/1834, Mahmud II took a further step in removing the supervision of Haremeyn evkaf from the Dârüssaade Ağa by creating a parallel office which administered the affairs of the Haremeyn Treasury. This new directorate was placed in the hands of Mehmed Nazif Efendi, the then acting Haremeyn Muhasebecisi or Chief Accountant for the Haremeyn Treasury.[43]

The experiment, however, proved too impracticable to be effectively implemented. The existence of two separate administrations for the Haremeyn estates only complicated matters; Nazif Efendi was incapable of functioning as head of the new müdüriyet at the level that was deemed necessary and desired, and it was decided to dismiss the Dârüssaade Ağası from the Haremeyn Ministry and eliminate the Haremeyn directorate. The müdüriyet and nezaret were then united with the title of Haremeyn-üş Şerîfeyn Evkafı Nezareti. The office of nâzır was conferred on Hacı Edhem Efendi, the Defter Emini. Out of consideration for the importance and sanctity of the Haremeyn estates, it was considered fitting and proper to confer the office of nâzır on only high-ranking members of the rical, specifically on those who held the rank of rütbe-i sâlise. As for the Dârüssaade Ağası Uzun Abdullah Ağa, he was pensioned on a monthly salary of 15,000 guruş, and the income and fees the Chief Ağa formerly received for his duties as Haremeyn-üş Şerîfeyn Nâzırı were given over to the Haremeyn Hazinesi.[44]

[41] *Evkaf-ı Hümayûn*, 29.
[42] *Evkaf-ı Hümayûn*, 29.
[43] *Evkaf-ı Hümayûn*, 30.
[44] *Evkaf-ı Hümayûn*, 30-1.

With the transfer of the administration of evkaf which had been under the nezaret of the Şeyhülislâm to this ministry, Edhem Efendi was assigned a salary that was commensurate with his increased authority, to the amount of 10,000 guruş. And with the transfer of the Haremeyn directorate to the nezaret, the uniting of the Haremeyn Mukataacılığı with the Anadolu and Küçük Evkaf-ı Haremeyn Muhasebecilikleri was deemed appropriate; now independently with the title of Evkaf Muhasebecisi, and with the rank of rütbe-i sâniye, sınıf-ı sânisi, former Haremeyn Director Nazif Efendi was appointed Chief Accountant for the Haremeyn Ministry in Receb of 1252/1836 by an imperial edict which was issued confirming him in this new office.[45]

While the Haremeyn Nezareti remained for a time an independent ministry separate from the Imperial Evkaf Ministry, since an imperial edict had been issued which required the Evkaf-ı Hümayûn Nâzırı to act as a mediator in petitions sent to İstanbul regarding Haremeyn evkaf, the Haremeyn Nezareti came to be regarded as a branch of the Ministry for Imperial Evkaf.[46]

Because of the preeminence the Haremeyn Nezareti had enjoyed under the Dârüssaade Ağas, this ministry had supervised all imperial evkaf holdings. With the growth of the Evkaf-ı Hümayûn under Mahmud II, however, the Haremeyn Nezareti was no longer qualified to possess this competence. On 1 Rebiyülahir of 1250/1834 the prerogative of inspecting imperial evkaf was taken from the Haremeyn Ministry and given to the newly formed inspectorate, the Evkaf-ı Hümayûn Müfettişliği, and for the first time İmâmzâde Mehmed Esad Efendi was appointed to this office.[47]

On 18 Zilhicce of 1250/1835 the direction of five evkaf holdings which had been under the Sadr-ı Rumeli (the Kâziasker of Rumelia), the Sadr-ı Anadolu (the Kâziasker of Anatolia), the İmâm-ı Evvel-i Şehriyarı (the chief imam of the imperial palace), the Nakibüleşraf (the representative at İstanbul of the Şerîf of Mekka), and the evkaf under the Davud Paşa naibi were annexed to the Evkaf-ı Hümayûn Nezareti. Shortly thereafter, on 22 Zilhicce 1250/1835 the evkaf of Hüdavendigâr (that is, of Sultan Murad I) in Bursa and that of Ebu Eyüb Ansarî were also added to the Imperial Evkaf Ministry.[48]

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[45] *Evkaf-ı Hümayûn*, 32. On the transfer of the evkaf under the supervision of the Şeyhülislâm to the Haremeyn evkafı nezareti, see *Cevdet Evkaf* No. 8308, 7 Ş 1252/1836. İlmühaber. Şeyhülislâmların nezaretinde bulunan evkafların haremeyn evkafı nezaretine naklı ve idarelerine dair.

[46] *Evkaf-ı Hümayûn*, 32.

[47] *Evkaf-ı Hümayûn*, 32.

[48] *Evkaf-ı Hümayûn*, 33.

By the year 1835 then, the Evkaf-ı Hümayûn Nezareti was in control of much of the major evkaf property throughout the empire, both in Europe and in Asia. For the purpose of collecting the revenue of these vakıfs which were scattered throughout the empire, a number of local notables in the centers of the provinces of Rumelia and Anatolia were commissioned as salaried evkaf directors with the title of Muaccelât Nâzırları. They were given this title because of their main function: they acted as receiver and controller of money paid on the first sales of evkaf property; muaccelât were the sums of money paid at once on the purchase of real property.[49] The Muaccelât Nâzırs were responsible for collecting revenue of both Haremeyn and imperial evkaf.

On 1 Receb of 1251/1835 the salaries of all evkaf officials were raised commensurate with an increase in their responsibilities; the raise in pay was effective for both the lower levels of employees, the müstahdemîn, and for higher officials, the memurîn. This had been the second increase in three years; previously, in Receb of 1248/1832 the salary for nâzırs was increased from 20,000 to 30,000 guruş, the salary for the treasurer was raised to 3000, that of the receiver general to 2500, and the paymaster received 2000 guruş per month.[50]

The Evkaf Ministry further increased its holdings by abolishing the separate Water Works Administration, the Su Nezareti, and dismissing its minister, Su Nâzırı Âli Behcet Ağa. On 16 Zilhicce 1252/1837 the former Water Works Ministry became annexed to the Imperial Evkaf Ministry, and the Director of Imperial and Public Buildings (Ebniyye-i Hassa Müdürü) Hüsameddin Efendi became Su Nâzırı for the Evkaf-ı Hümayûn Nezareti with a salary of 5,000 guruş.[51]

The interest the Evkaf Ministry had in the Water Works Ministry and its holdings is comprehensible when it is understood that much of the water for the population of the bilâd-i selâse, the three cities of İstanbul, Eyüb, and Üsküdar, was provided by fountains, both çeşme and sebil, which had been erected and endowed as charitable foundations by members of the imperial family and the great dignitaries of state. The revenue for the multitude of these fountains derived from evkaf property was considerable, and the proper repair and maintenance of their conduits was in the interest of the government.

An additional charitable service provided for the population of Galata was the creation and operation of a number of large heavy rowboats known as pazar kayıkları for transportation and travel on the Bosphorus and along the Golden Horne. An office within the Evkaf Ministry was

[49] *Evkaf-ı Hümayûn*, 33.
[50] *Evkaf-ı Hümayûn*, 33.
[51] *Evkaf-ı Hümayûn*, 33.

established with the title of Kayıkcılar Kitabeti, and the official entrusted with this new office was given a salary of 750 guruş. Further, the post of Kayıkcılar Kethudalığı was created in seventeen different places along the Bosphorus and Golden Horne for the supervision of the boatmen, the general administration of transport, and the collection of fees. The creation of this transport organization occurred in Zilkâde 1254/1839.[52]

Because of its increased importance, on 20 Muharrem 1254/1838 the Evkaf Ministry was united with the Tophane-i Âmire Nezareti, the Imperial Arsenal, and the Minister for the Sultan's Privy Purse, Hazine-i Hassa Nâzırı Elseyyid Mehmed Hasib Paşa was appointed as nâzır. But this unification of the two ministries was of brief duration — only until the following year; the reason for this decision is unclear, for the difficulties in administration resulting from such a union soon became evident, and the experiment proved unworkable.[53]

More importantly, shortly following this unification, on 10 Rebiyülevvel 1254/1838 the Haremeyn Ministry was annexed to the Evkaf-ı Hümayûn Nezareti, putting an end to its independent administration. With the resultant growth of the Evkaf Ministry, a Müsteşarlık, or undersecretary for the ministry was created, and for the first time the Public Assayer (Sahib-i 'Ayar) Elseyyid Mehmed Şevki Efendi was appointed to the Müsteşarlik with a salary of 20,000 guruş.[54]

In Rebiyülahir 1254/1838 the office of Tahrirat Kitabeti (Secretary General in Charge of Correspondence and Despatches) was instituted and united with the Kesedarlık Baş Kitabeti, the Chief Secretariat of the Treasury in the Evkaf Ministry. Kesedar Âli Şevki Efendi was appointed the first Tahirat Kâtibi with a salary of 7,000 guruş. The Zimmet, Sergi, Ruznamçe, and Gedikler departments were maintained, and to each of these offices five additional secretaries were appointed with salaries of 1,000 guruş each. In addition, a Directorate for Repair and Restoration of Evkaf Buildings (Tamirat Müdürlüğü) was created in the same year, and a director was appointed with a salary of 1,500 guruş.[55]

Because of the uniting of the Haremeyn Ministry with the Evkaf-ı Hümayûn administration, it was not thought fitting to multiply the Muaccelât Nâzırs, the provincial revenue collectors for these two ministries, and thus the two offices were united under the title of Muaccelât Müdürü, and evkaf müdürs were appointed to the centers of the more important vilayets and livas. Likewise, it was understood that an increase in the müffetişler or inspectors for the two ministries was not

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[52] *Evkaf-ı Hümayûn*, 34.
[53] *Evkaf-ı Hümayûn*, 34, 36.
[54] *Evkaf-ı Hümayûn*, 34.
[55] *Evkaf-ı Hümayûn*, 35.

desirable, and therefore these two offices were united with the title of Evkaf-ı Hümayûn Müffettişi, and a single mahkeme-i teftiş, or court of inspection was created. With the rank of Haremeyn, Elseyyid Mehmed Emin Asaf Efendi was appointed to the Evkaf-ı Hümayûn Müfettişliği.[56]

Mehmed Hasib had been appointed as the first nâzır to the Evkaf Ministry on 8 Şaban 1250/1834. From then until his resignation in 1275/1859, he was to hold the position of Evkaf Minister on no less than five separate occasions. With his second appointment, begun on 20 Muharrem 1254/1838, he was conferred the rank of Paşa. This vizirial status included him within the ranks of the High Council of Ministers, the Meclis-i Hass ve Vükelâ; thereafter, Evkaf Ministers were regularly appointed members of the High Council. Mehmed Hasib's second term in office marks the foundation of the Evkaf Ministry in its essential form as a separate administration incorporating the great vakıfs of the empire under the direction of a leading member of the Imperial High Council.

It is also noteworthy that at this time an independent Ministry for Secondary Schools was created. In order to provide for the number of Rüşdiye secondary schools established by the Evkaf Ministry for secular and technical training, a separate administration was formed with the title of Mekâtib-i Rüşdiye Nezareti. Mehmed Esad Efendi was appointed minister to this new office on 25 Zilhicce 1254/1839 with the rank of Anadolu Sadareti.[57]

Upon the resignation of Elseyyid Mehmed Hasib Paşa as Evkaf-ı Hümayûn Nâzırı on 21 Cemaziyülevvel 1255/1839, former undersecretary for the ministry Elseyyid Mehmed Şevki Efendi became the new Minister for Imperial Evkaf with a salary of 30,000 guruş. In the same year, owing to the difficulties which had arisen from uniting the Evkaf Ministry with that of the Imperial Mint, the decision was taken to separate the two organizations.[58]

In the beginning, vakıf offices entitled cabi odaları, or offices for the collection of evkaf revenue, were created for the great vakıfs of the empire. These were the following: Sultan Mehmed II, Sultan Bayezid II, Sultan Selim II, Şeyhzâde Sultan Ahmed, Haseki Sultan at Cerrah Paşa, Atîk Valide Sultan at Üsküdar, the Yeni Cami, Aya Sofya-ı kebir, Nur Osmaniye Camii, the Lâleli mosque complex, the Hamidiye külliyesi, the Selimiye at Üsküdar, Ummet-Allah Sultan, MirŞah Sultan, Sinan Paşa at Beşiktaş, Kılıç Âlî Paşa at Tophane, Şehid Mehmed Paşa at Kadirgâh, Ebu Eyüb Ansarî, and Cigalizâde Rüstem Paşa in the region of the Sublime Porte.[59]

[56] *Evkaf-ı Hümayûn*, 35-6.
[57] *Evkaf-ı Hümayûn*, 36; see page 54 on the ministry of Mehmed Hasib Paşa..
[58] *Evkaf-ı Hümayûn*, 36.
[59] *Evkaf-ı Hümayûn*, 36-7.

But as the Evkaf Ministry developed in organization, no need remained for the continuation of the cabi odaları, and consequently the collection of evkaf revenue was transferred to the Tahsilat İdaresi, the Department of Revenue Collection, which was created within the Evkaf Ministry's administration. Some of the evkaf revenue collectors were employed in the Tahsilat İdaresi and appointed with the title of tahsildar, or tax collector.[60]

Upon his accession to the throne in 1808, after having narrowly escaped assassination due to palace intrigue, Mahmud II was not in a position to directly effect reforms within the government. Since it was not possible to dismiss the Dârüssaade Ağası from office as minister for imperial evkaf, the only recourse the sultan had was to create an entirely separate nucleus of vakıfs and place his own appointee at the head of its administration. The actual business of managing the Hamidiye evkaf was transferred from the Dârüssaade Yazıcısı to the new Imperial Evkaf Ministry in 1809. Four years later, in 1813, the administration of the Hamidiye and Mahmudiye evkaf holdings was given to the Zarbhane-i Âmire Nezareti, and the ministers for the Imperial Mint were appointed as deputy mütevellis for the Evkaf Ministry until 1826, when imperial evkaf administration was separated from the Zarbhane Nezareti, and a separate Ministry for Imperial Evkaf was created in its own right.[61]

This action taken by Mahmud II appears, perhaps, as something of an anomaly; it is understandable, however, when it is realized that the Imperial Mint was the one ministry that the sultan could rely on, since this ministry was relatively free from corruption and mismanagement. Since the administration of the Finance Ministry was not well regulated, most of its direction and expenditures were turned over to the Zarbhane Nezareti, and in 1835 the Defterdarlık and the Zarbhane Eminliği were united under a single administration with the title of Zarbhane-i Âmire Defterdarlığı.[62]

But this expedient, instead of amending difficulties with the Defterdarlık, only served to double the work of the Imperial Mint and create confusion. Consequently, the two ministries were separated, and the treasury for the new imperial troops, the corps known as the Asakir-i Mansure-i Muhammediye, was united with the Finance Treasury to form the Umur-ı Maliye Nezareti in Zilhicce of 1253/1838, with the Zarbhane once again becoming an independent ministry.[63]

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[60] *Evkaf-ı Hümayûn*, 37.
[61] *Evkaf-ı Hümayûn*, 26.
[62] Pakalın, "Darphane Emini," I, 396.
[63] Pakalın, "Darphane Emini," I, 396.

This process of fusion and fission which occurred with regularity in the development of ministries under Mahmud II was undoubtedly done from political motives. Instead of directly dismissing an official, or abolishing an office and the functions associated with it, Mahmud first removed administrative authority from the jurisdiction of a political adversary, and then transferred this authority to a ministry in which he had placed his own trusted officers. He thereby weakened the position of incompetent or unreliable officials, while strengthening his own base of political and economic power.

Nevertheless, this transfer of position and authority was little more than a temporary political expedient, and, in the long run, hardly workable, for it meant that one ministry was responsible for carrying out the administrative work of two. Once effective authority had been transferred to the responsible ministry concerned, then the politically weakened office was incorporated into the competent administration. After a time, the ministries were then separated, — but only after the incorporated ministry had been purged of undesirable officials. This cautious and conservative procedure was often resorted to by Mahmud II in creating new ministries.

In placing the administration for imperial evkaf under the Zarbhane Nezareti, Mahmud II was ensuring sound management for his own endowments. He was intentionally creating a situation whereby religious foundations would ultimately be subordinate to and form a part of the Finance Ministry; during the early years of Mahmud's reign the Zarbhane Nezareti had acted as a finance ministry. It is clear from this action that the sultan had the intention of making the Imperial Evkaf Treasury serve the financial needs of the expanding bureaucracy and military.

It has been estimated that at the beginning of the nineteenth century from one-half to two-thirds of the landed property in the Ottoman empire was vakıf.[64] From the standpoint of revenue, this situation was extremely injurious to the Imperial Treasury since the vast majority of landed evkaf property was mîrî arâzî, state lands whose revenues had been alienated by former sultans and made vakıf. It was imperative for the sultan to rectify this state of affairs by creating a central administration for all evkaf throughout the empire in order to obtain the revenue of mîrî lands which had been diverted to other ends. This was, without doubt, Mahmud's main motivation in creating the Evkaf-ı Hümayûn Nezareti, although the ministry was founded under the aegis of reform.

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[64] M. A. Ubicini, *Lettres sur la Turquie*, première partie, deuxième édition (Paris, 1853), 271.

The ostensible reason for instituting the Evkaf Ministry was to create a central administration for evkaf properties that were under the control of a multitude of administrators and subject to an infinity of abuse. The ministry for imperial evkaf under the Dârüssaade Ağası had been created in the sixteenth century for just that reason. Until that time, the office of mütevelli had been sold to the highest bidder for a number of imperial foundations, each of which had its own administration. In order to counter this widespread abuse, the separate mütevelliships were consolidated into one central office under the supervision of one of the highest officials of the state, who was, after the grand vizir, the closest to the sultan. But the concentration of so much wealth in the hands of one official was too much of a temptation for many of the Dârüssaade Ağas, who made the practice of embezzlement institutional.

Before the foundation of the Evkaf-ı Hümayûn Nezareti in its essential form in 1826, evkaf consisted of three types. The first kind was evkaf-ı mazbuta which was evkaf that was entirely administered by the Evkaf Ministry. Evkaf-ı mazbuta comprised three categories. The first was the evkaf of the sultans and their dependencies. The second were those evkaf taken over by the Evkaf Treasury owing to the fact that the line of descendants of the first mütevelli designated by the vâkıf had come to an end. The third kind of evkaf-ı mazbuta were those whose mütevellis were paid a regular stipend by the Evkaf Treasury on condition that they not interfere in the affairs of the vakıf which had been brought under the administration of the Evkaf Ministry. It has been noted that seizure of evkaf in this manner was clearly unacceptable according to canon law.[65]

The second kind of evkaf, known as evkaf-ı mulhaka, were those which were under the supervision of the Evkaf-ı Hümayûn nâzırs, but which were still administered by means of individual mütevellis. Evkaf-ı mulhaka were evkaf whose nezarets had been assigned to the chief dignitaries of state such as the sadr-ı âzam, the şeyhülislâm, the dârüssaade ağası, the muhteremeyn fetva emini, and the kadıs of İstanbul and the bilâd-ı selâse. With the foundations of the Evkaf Ministry in 1826, these independent nezarets were abolished, and supervision of the evkaf that had been their jurisdiction passed to the Evkaf-ı Hümayûn Nezareti.[66]

The third type of evkaf, evkaf-ı müstesna, were those which were administered entirely by their own mütevellis without the interference of the Evkaf Ministry. Examples of these kinds of evkaf are the vakıfs of the

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[65] *Ahkâm ül-evkaf*, 9, and asterisked footnote.
[66] *Ahkâm ül-evkaf*, 10.

founders of dervish orders and those of the gazis who led the first Ottoman conquests.[67]

From the three categories enumerated, it is apparent that the majority of evkaf fell under the jurisdiction and control of the Evkaf Ministry. The object of this accumulation of evkaf under one ministry was to put an end to the misappropriation of funds and other abuses which had been rife under the separate nezarets. The main difficulty with evkaf-ı mulhaka was that when the line of descendants which had been designated by the founder for the office of mütevelli had become extinct, the nâzırs gave these offices to whomever they favored, and they were conferred as a sadaka or a gift.[68] Previously, a müfettiş or inspector was assigned to the nezarets who would examine the accounts of the vakıfs every year. And in addition, whenever there was any complaint or statement by the local inhabitants or by the servants of the vakıf that the conditions of the vâkıf were not being fulfilled, or that the religious foundation was in need of repair, then the mütevelli was compelled to fulfill the conditions of the vâkıf.[69] This, however, was not the case when the tevliyet was conferred as a favor, for when the business of buying and selling evkaf property and confirming such transactions was in the hands of the mütevellis and the revenue collectors for the vakıf, every kind of fraud and corruption occurred, and this condition is what led to the termination of these nezarets and the creation of the Evkaf-ı Hümayûn Nezareti.[70]

Due to the power and independence of the Dârüssaade Ağaları, the selâtin evkaf confided to their supervision were administered to their own advantage. Sultan Abdülhamid I had attempted to curb this abuse by creating a separate nezaret for his own religious foundations, the Hamidiye evkaf. This move had little effect, but it did establish a precedent, a precedent that was seriously followed by Mahmud II. Neither Abdulhamid I nor Selim III had been in a position to effect their will as the head of state. The growth of the Evkaf Ministry increased proportionally to the development of Mahmud II's power and absolutism; it was established as a fully independent ministry only after the destruction of the Janissaries, an act which eliminated any opposition to the sultan and gave him a free hand in controlling the evkaf that had been in the charge of the great dignitaries of state. From the nascent holdings of the Mahmudiye, Hamidiye, Selimiye, and Lâleli selâtin evkaf, the Evkaf-ı Hümayûn Nezareti grew to comprise virtual all the evkaf of the empire. It was Mahmud's intention that the majority of landed property and

[67] *Ahkâm ül-evkaf*, 10.
[68] *Netayic ül-vukuat* IV, 100.
[69] *Netayic ül-vukuat* IV, 100.
[70] *Netayic ül-vukuat* IV, 100.

roofed property revenue which had been diverted by means of icâre-teynlû semi-familial evkaf into private hands should return to its original condition as property belonging to the state. This was not an idle claim, for the majority of evkaf in the Ottoman dominions was arâzî-i emiriye-i mevkufe, mîrî lands that were made vakıf; more specifically, the taxes to mîrî lands had been made vakıf. As the rakabe remained with the beytülmâl, they were evkaf-ı gayr-ı sahiha, canonically unsound; and as they were of quasi-legal status and ultimately held provisionally, they could be revoked. This, in point of fact, is exactly what happened, for the right of control to the evkaf of the empire under Sultan Mahmud II reverted to the state. The principal applied was that property which originally belonged to the state remained with the state. And in this respect all evkaf was evkaf-ı hümayûn.

CHAPTER SIX

GOVERNMENT TAKEOVER OF BEKTAŞİ PROPERTY AND THAT OF ALL DERVISH ORDERS

One area of vakıf that was taken out of the province of independently administered müstesna evkaf was the property belonging to the Bektaşi order of dervishes. Approximately one month after the abolition of the Janissary corps in İstanbul on 15 June 1826, the Bektaşi order of dervishes associated with them was put to an end.

Notwithstanding the Bektaşi alliance with the Janissary corps from the latter's inception, partisan alliance with the corps was not given as the official reason for the order's abolition. The Bektaşis were outlawed, rather, on the grounds that they were heterodox.[1] The charge did not come directly from the sultan, nor from the office of the grand vizir, but was pronounced by the Şeyhülislâm. This was understandable; suppression of an established religious order by fiat on political grounds alone would have been viewed by conservative elements within Islamic society as a radical action by the sultan. Heresy, however, was another matter.

It was for this reason that an assembly of the ulema and the heads of the chief dervish fraternities was convoked by the Şeyhülislâm, probably sometime early in July of 1826. Appropriate to the solemnity of the occasion, the meeting was held in a mosque within the innermost high gate of the palace. Apart from providing a solemn air, the setting of a court mosque within the Gate of Felicity lent a sense of religious authority to the judgment that was to come. Among the leading dignitaries assembled were the grand vizir, the two Kâziaskers of Rumelia and Anatolia, members of the ulema religious class, and the şeyhs of the principal tarikats, or dervish fraternities — namely, the heads of the Nakşibendiye, Kadiriye, Halvetiye, Mevleviye, and Sadiye orders.[2]

In an address read without formality and in an inpromptu manner, the Şeyhülislâm stated that the founder of the Bektaşi order, Pîr Esseyyid Mehmed Hacı Bektaş-ı Veli, was not brought into question, nor was the order he founded in its initial form being censured. What was being anathematized were those elements which had subsequently infiltrated the order and destroyed its orthodox character. Such individuals did away with the observance of ritual prayer and purification, and were

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[1] Mehmed Esad, Sahhaflar Şeyhîzâde, *Üss-i zafer* (İstanbul, 1243/1827), 208.
[2] *Üss-i zafer*, 207.

guilty of every kind of immorality and vice. Aside from giving themselves over to debauchery and wine-drinking, these schismatics villified the Raşidûn, the first four caliphs, and exalted the caliph Âli over Muhammed. They were specifically condemned as adherents of the heretical Alevî Shi'ite sect designated as Rafizî.[3]

After stating that these heretics, known as ehl-i ilhad, were Bektaşis in name only, and that their beliefs and practices were notorious and known to all, Şeyhülislâm Kadızâde Mehmed Tahir Efendi asked the leaders of the dervish fraternities for specific information on the activities of the Bektaşis. Initially none was forthcoming; perhaps because the şeyhs simply did not know, for the Bektaşis were a secret fraternity. It is more probable that the dervish leaders feared that providing any information would lead to their own implication.[4] The heads of the dervish community declared that since they had no social acquaintance with the Bektaşis, and were not on familiar terms with them, they were not in a position to offer details concerning their activities. This initial reticence notwithstanding, some of the şeyhs residing in the region of Üsküdar mentioned they had heard of notorious actions forbidden by the holy law which were practiced by the Bektaşis in the area. It is interesting to note that the emphasis was on hearsay and not on firsthand experience.[5]

Following further testimony by members of the ulema of acts which were contrary to the laws of the Kur'an and the Sunna, it was declared lawful to punish these types through the political authorities. An imperial rescript ordered that the Bektaşi tekyes in the vicinity of İstanbul were to be destroyed, including all those tekyes recently constructed in the provinces. All older buildings, that is, those built more than sixty years prior to the year 1826, were to be converted into camis, mescids, mektebs, and medreses.[6]

On the 4th of Zilhicce 1241/1826, according to the text of the hatt-ı hümayûn (imperial rescript), by a fetva legal ruling the more notorious of the outlawed order were to be executed in designated areas, — expressed in the pious euphemism "sent into the realm of nothingness via the bridge of the great sword of Islam."[7] On the same day, aside from the türbes or mausoleums located within the tekyes, all Bektaşi buildings in the region of greater İstanbul were destroyed, including those located in Şedlik in Rumeli Hisarı, Öküz Limanı, Kara Ağaç, Yedi Kale,

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[3] *Üss-i zafer*, 208-10.
[4] *Üss-i zafer*, 208.
[5] *Üss-i zafer*, 208.
[6] *Üss-i zafer*, 209.
[7] *Üss-i zafer*, 211.

Südlüce, Eyüb, Üsküdar, Nerdübanlı (Merdivenli) Köyü, and Çamlıca.[8]

Those Bektaşi dervishes found within the tekyes were to be rounded up in groups and thrown into the Zarbhane prison. After interrogation, the least prominent members were exiled to regions of Anatolia which were strongholds of the ulema such as Amasya, Kayseriye, Mamuretülaziz (Elaziğ) in eastern Anatolia, Hadim to the south of Konya in the Taurus mountains, and Birgi to the east of İzmir.[9]

The task of assessing and recording Bektaşi evkaf property within the province of Rumeli was entrusted to former Mirahor-ı Evvel (First Master of the Horse) Âli Bey, assisted by Âli Remzi Bey, a müderris recently appointed molla by the Şeyhülislâm.[10] As in the capital, all tekyes constructed within the past sixty years were to be demolished, with the older edifices converted into mosques and religious schools.

Confiscation of Bektaşi landed evkaf was justified on the grounds that acquiring lands which were arâzî-i mîrîye state lands by a temlik grant and converting them into evkaf was invalid, since mîrî lands could never be private property or vakıf: therefore, because the temlik grant was not sound, neither was the vakıf. But had the temlik been valid, since it was granted to heretics (ehl-i bida), the vakıf created was invalid, and could thus be legally annulled.[11]

In addition to obtaining religious sanction for the abolition of the order, Mahmud II prepared the ground for the takeover of Bektaşi property by securing from the Şeyhülislâm a fetva, or legal ruling. The two fetvas signed and executed by Şeyhülislâm Kadızâde Mehmed Tahir Efendi were essentially the same in content, as both gave authorization to the sultan to assign the evkaf of the Bektaşiyân to other purposes:

> Whereas certain villages and lands had been made temlik and vakıf by former sultans (may their glory be increased), and their revenues assigned to the şeyhs of a zâviye and to those residing within its cells, — if, after a period of time, those who possessed the revenue of the said vakıf were to die, and in their stead there came to reside in the abovementioned zâviye şeyhs and dervishes who were followers of innovation, and addicted to every form of lewd depravity, even though they are entitled to the said revenue, nonetheless, does the sovereign of İslâm — may God whose name be exalted to the day of resurrection strengthen him — possess the power to divert these revenues to another end?
> The reply: It is permissible.[12]

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[8] *Üss-i zafer*, 211.
[9] *Üss-i zafer*, 212.
[10] *Üss-i zafer*, 213.
[11] *Üss-i zafer*, 216.
[12] *Üss-i zafer*, 217.

The order for the abolition of the Bektaşis had come within less than a month after the destruction of the Janissaries. A hatt-ı hümayûn that was issued stated that all Bektaşi tekyes in the region of greater İstanbul were to be destroyed. Two additional fermans dealt with the Bektaşi tekyes of Rumelia and Anatolia; the former decree is described in the work of Mehmed Esad, while the latter has not yet come to light.[13] Apart from the undated ferman published in *Üss-i zafer*, an ilâm or judicial decree has been preserved, dated 29 Şaban 1243/1828, together with several official statements based on that decree.[14]

The fate of Bektaşi property in the eyâlet of Çermen provides a specific instance of government policy toward the outlawed order in Rumelia. With respect to the zâviye of Kızıldeli Sultan in Dimetoka, and other Bektaşi zâviyes and tekyes within the province of Çermen, the value of their livestock and lands was to be assessed, and then this property was to be sold to the highest bidder as an iltizam tax farm. It is interesting to note that the Bektaşi zâviyes were not simply demolished and left in ruins; their building material was to be used for the repair of camis and medreses. In the kaza of Firecik the ruins of Bektaşi zâviyes which had been demolished were employed for similar ends.[15]

A ferman of 1828 reflects the same imperial policy enacted in Anatolia. Within the kaza of Merzifon the zâviyedar of Pîrî Baba zâviyesi, one İbrahim Efendi, was to be driven out by authority of a judicial writ since he was a member of the Bektaşi order. In his place Osman Efendi, one of the ulema and a member of the accepted Nakşibendiye order, was appointed türbedâr by a decision of the chief justice of the province and the canonical court. By a berat or title deed both the offices of türbedâr and the property were given to the said Osman Efendi, the berat being issued by the Anadolu muhasebeci, the financial accountant for Anatolia, subsequent to the arrival in the capital of a signed register and the issuance of an imperial order to that effect. A formal memorandum and

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[13] Suraiya Faroqhi, "The Tekke of Haci Bektaş: Social Position and Economic Activities," *International Journal of Middle East Studies* 7 (1976), 202.

[14] *Cevdet Evkaf* No. 13680, 29 S 1243/1827. Anadolu ve Rumelide ne kadar Bektaşi tekye ve zâviyesi varsa yalnız içindeki türbeleri birakılıp maadasının hedmi ve emval ve eşyasının mîrî namına zapt ve tahriri hakkındaki irade buyrultu ile tebliğ olunmakla ulema ve ayan ve halka okunup buna tevfiken Merzifonda vâki Pîrî Baba zâviyesinde oturan babası defedilmiş olmakla Osman Efendi namında sulehadan bir zata türbedarlığın tevcihi ve bu zâviyenin bütün menafi ve hasilatının mumaileyhe tahsisi hakkında.

[15] *Cevdet Evkaf* No. 18055, 25 ZA 1243/1828. Dimetokada Kızıldeli Sultan zâviyesiyle Çermen eyâletinde yıkılmayan diğer Bektaşi zâviyelerinin arâzî ve hayvanlarının iltizam bedellerinin hesabına ve Firecik kazası dahilinde yıkılan Bektaşi zâviyeleri enkazının cami ve medrese tamirlerinde kullanılmasına ve saireye dair. The zâviye of Kızıldeli Sultan is mentioned in Mehmed Esad's discussion of the Bektaşis; see *Üss-i zafer*, 199ff.

berat were then sent to the Anadolu muhasebecisi who conferred the title deed.[16]

Similarly, with the destruction of the Bektaşi tekyes of Ariz Baba, Kız Ocağı, and Gaibler in the kaza of Havas Mahmud Paşa in the sancak of Çermen, the land and the property were sold to the people in accordance with the decree. The property was initially to be sold to the highest bidder at auction. One Hasan Efendi from Havas Mahmud Paşa kaza requested the property for 11,000 guruş. The instructions of the government were to sell the land to any buyer willing to pay more than 12,000 guruş, but failing the appearance of such a buyer, it should be given to the said Hasan Efendi at his offered price. To whomever the property was sold, a mülknâme would be conferred, and his name and occupation was to be written in an officially signed register to be sent to the treasury.[17]

The revenue from Bektaşi lands was taken over by the Mansure treasury and given to the new Mansure army which had been created by Mahmud II. Originally the tithe revenues of these lands were administered by emanet, that is, by salaried government agents; but as the revenue was lower than expected for these initial years, the revenue was farmed out as iltizam ten years later in 1254/1838-9. This was the policy carried out in Paşa sancak for five Bektaşi zâviyes in the kazas of Eğri Bucak, Cuma, Kasım, Kesriye, and Behişte.[18]

Aside from an unprofitable experiment in administering Bektaşi tithe revenues by emanet, the government had to contend with fraud and profiteering from those it sold the land to. The lands connected to Kızıl Deli Sultan zâviye in the kaza of Dimetoka are a case in point. After the tithe collection had been auctioned to tax farmers as iltizam, the lands belonging to Bektaşi tekyes and zâviyes annexed by the Mansure treasury were sold to Mustafa Hüsrev Efendi, an inhabitant of Dimetoka kaza. A total of 44 fields amounting to 1800 dönüms (one dönüm equalling a quarter of an acre) of arable fields and three dönüms of pasture land were sold for the sum of 20,400 guruş downpayment and a yearly payment of fifty guruş. But after a mülknâme title deed was given to him, Mustafa Hüsrev Efendi subsequently divided the land, and then reportedly sold it to several individuals for the sum of 200,000 guruş. Upon further investigation it was discovered that the land was resold for 123,180 guruş. Mustafa Efendi was required to hand over to the treasury the sum he profitted by; and at the time of the communique, he had

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[16] *Cevdet Evkaf* No. 13680, 29 S 1243/1827.

[17] *Cevdet Evkaf* No. 8263, tarihsiz. Havas Mahmud Paşa kazasında Bektaş tarikinden Ariz Baba, Kiz Ocağı, ve Gaipler tekyelerinin emlâk ve arâzîsinin Bektaş tekyelerinin lağvından sonra verilen emir mucibince ahaliye satıldığı ve mülknâme verildiğine dair.

[18] *Maliyeden Müdevver* No. 8248, 1255/1839-40.

handed over 35,000 guruş, while the remaining 88,681 had yet to be obtained.[19]

Occasionally too, it was difficult for the government to sell Bektaşi property at the desired price, if only for want of takers. The treasury was then obliged to sell the property at a low value to whoever offered to acquire it. For example, the property, mills, and copper belonging to Abdi Bey zâviye in the village of Bikan located in the kaza of Güzelhisar Kara Ağaç had remained vacant since the time of their takeover by the Mansure treasury, and the mills had subsequently fallen into ruins. Since this was the case, one of the local inhabitants, one Seyyid Mustafa Efendi by name, petitioned the government for permission to be granted a mülknâme to possess the land, mills, and copper for the downpayment of 7500 guruş. The property amounted to 112 dönüms of arable field, two mills, and 168 pounds of copper. Since no revenues had been collected from 1826 to 1833, an imperial order was issued on the subject of selling the land and copper by auction for a just price and handing over the downpayment along with the fee given to the auctioner, and the name and occupation of the buyer would then be recorded in a sealed register in order to deliver the title deed into the buyer's hands. But, since no record existed regarding the arrival of the revenue or the sale of the land and copper, to prevent a total loss of revenue, it was necessary to sell to the mentioned Seyyid Mustafa Efendi the property for the stated sum of 7500 guruş. As no other prospective buyer had appeared, the Mansure treasury was obliged to accept Mustafa Efendi's initial offer.[20]

The policy of direct control by the Ottoman government of Bektaşi property was extended to the evkaf revenues of all the zâviyes and tekyes in the empire. In 1256/1840 it was decreed that their revenues were no longer to be administered independently, but were to be tithed and collected by agents of the government. After the tithe had been obtained by these agents, the mültezim tax farmers, the remainder of the revenue was to be paid in kind to the dervishes. An official letter (tahrirat) of July 1840 set forth legislation regarding local administration according to the principles of the Tanzimat of lands, arable fields, and villages assigned for the provisioning of all tekyes and zâviyes:

> All lands, arable fields, and villages recorded in the main register of revenues (defter-i hakanî) and tied to dersiye fees for instruction, and which were assigned in the times of the former sultans for the support of the poor and dervishes of all tekyes and zâviyes in the regions within the province of Tanzimat administration henceforth will not be administered independently, but like all other evkaf attachments and zeamet fiefs and

[19] *Maliyeden Müdevver* No. 8248.
[20] *Maliyeden Müdevver* No. 8248.

> mukataat shares which are held in common (müşterek) and that are mixed (mahlût) with state lands, they will be administered by local officials. And the tithe expense of the revenue, whatever it may be, after it has been taken out, the remainder will be paid in kind, and nothing more than this tithe expense shall be obtained. But as for the Mevlevî evkaf and other evkaf which is independent, since the revenue of these is given to the poor and to the dervishes for food, it is not permitted for them to be interfered with, but these kinds of villages will be tithed by the vakıf, and the matter of their not being taken over or transferred has been approved by the Meclis-i Vâlâ (High Council), and an imperial decree has been issued to that effect in the present year in the month of Safer, and the provincial governors will be notified of this by official letter ....[21]

The effect of this decree was onerous for those dervishes whose sole means of support was the tithe revenue. For example, the revenue of the village of Fonolye karyesi in the sancak of Velonya located in the province of Yanya had previously been assigned as taamiye or provisions for a zâviye which had been built by the people. But since the beginning of the Tanzimat in 1839 these tithe revenues had been taken over by the state treasury. The people of the district petitioned the government that these revenues amounting annually to 2700 guruş be returned. The government response to this request was that to relinquish these revenues to the said zâviye would be mugayir-i nizam, contrary to principle. In this case the state was lenient, however; it was declared that it was not deemed proper that dervishes and poor who were under imperial favor should be in a state of despair. Therefore, from the revenue of the village tithe taken over by the treasury, a monthly stipend of 200 guruş was given as taamiye to the said zâviye, and an imperial edict was issued to that effect.[22]

Similarly an official memorandum of 1262/1846 revealed the policy of the government and its effect on the dervishes. Since the beginning of the Tanzimat era in 1839 food and provisions normally given to travelers (ayende ü revende), the dervishes, the poor, and to the türbedâr Esseyyid Şeyh Ahmed Efendi of Seyyid Ahmed Zemci tekye in Kutahya had not been given. The daily provisions consisted of five loaves of bread to the amount of 80 direms in dry measure, and 50 direms of oil, one oke of rice, and two quantities of skim milk cheese. As all this had not been forthcoming since 1839, the mentioned türbedâr şeyh and dervishes were subjected to poverty and a ruined condition by the year of the petition,

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[21] *Cevdet Evkaf* No. 27168, C 1256/1849. Bütün tekye ve zâviyelerin taamiyelerine meşrut kura ve mezarı ve arâzînin tanzimat usûlünce mahallı idaresi tarafından teşrii hakkında.

[22] *İrade Meclis-i vâlâ* No. 6359, 22 B 1267/1851. Yanyada Fonolye karyesindeki zâviyeye mahsus karyenin hazineden zabtiyle zâviye-i mezkûreye taamiye tahsisine dair.

which was 1846. The government's reply was to reinstate the former amount of provisions as an act of imperial largess.[23]

Further, from the time of the Tanzimat's initiation, a zâviye belonging to the Kadiriye order of dervishes in Ayntab had been without provisions. A request was made by the postnişin şeyh of the zâviye regarding the granting of a monthly stipend of sufficient amount from the Haleb cizyesi, the revenue of the city of Aleppo. The response of the government was that any free assignment of salary which reflected an unbalanced account in the treasury (karşılıksız maaş) or any increase in existing salaries was prohibited. Nevertheless, although a complete restitution of the zâviye's revenue was not considered suitable, the state in this case authorized a monthly stipend of 50 guruş from the Haleb cizyesi, and it was recommended that an imperial largess of from 1500 to 2000 guruş be given to Şeyh Mustafa Efendi. A decree to this effect was issued in the year 1841.[24]

Another instance illustrative of the government's new position toward the dervishes is seen in the answer given to a petition of 1851. Owing to the death of Mahmud Efendi, a şeyh of the Nakşibendiye order, his wife Züleyha and their six sons and daughters were reduced to a state of destitution, and subject to severe financial hardship. The reason for their poverty was that the şeyh left no inheritance save for a zeamet fief valued at a yearly income of 2291.5 guruş. Upon Mahmud Efendi's death, this revenue was taken over by the treasury in accordance with the regulations of the Tanzimat. It was decided that, as with similar cases, by way of compensation a monthly salary of 100 guruş was to be assigned for life to the widow and her children. It is interesting to observe that the family of the şeyh had to petition the government for support, and that only then were they assigned a "suitable" amount of income which was deemed appropriate: "münasib mikdar maaş ... muvafık görünmüş."[25]

The attempt to limit and control the amount of revenue being freely given in the provinces for the support of the dervishes was a policy enacted early in the reign of Mahmud II. A summary report dating from 1232/1817 clearly elucidates this program. An increase in the amount of salary assigned to Sultan Ergun hanegâh (dervish monastery) of the Mevleviye order of dervishes had been requested by Hurşid Paşa, the governor of Anatolia. But the imperial irade authorizing the request was

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[23] *Cevdet Evkaf* No. 29774, Z 1262/1846. Kütahyada Seyyid Ahmed Zemci zâviyesine tanzimattan evvel tahsis olunan taamiyenin kemakân itasına dair.

[24] *İrade Dahiliye* No. 1616, fî gurre M 1257/1841. Ayıntabda kâin tarikat-ı Kadiriye hankâhının taamiyesine dair.

[25] *İrade Meclis-i vâlâ* No. 6922, 3 Ş 1267/1851. Mütevvefa Şeyh Mahmud Efendiden münhal zeametin zabtiyle zevce ve evladlarına maaş tahsisine dair.

denied on the grounds that it was forbidden to assign additional revenue from the mukataat and cizye taxes of Kutahya province. In spite of the fact that the daily revenue of the hanegâh was insufficient (100 akça daily) owing to the decline of the vakıf property, and was described as the least of the little (akall-ı kalil), it is clearly stated that it was forbidden to confer a salary by imperial decree from revenues and taxes in the provinces.[26]

Another instance of the system of balancing accounts introduced early in Mahmud's reign is from an official memorandum dating from 1819. In Gülanber kasaba in the kaza of Bağdad, the Nakşibendiye tekye of Gülanber had been drawing revenue from the cizye tax of Diyarbekir which proved insufficient for the support of the dervishes. The increase in salary did not come from the Diyarbekir cizyesi, but from the stipends of religious offices which had become vacant upon the death of the holder and were retained by the treasury. This usually occurred when the holder of the office died without heirs. Owing to Şeyh Halid Efendi and Müderris Şeyh Mehmed Efendi of the Zuhab medrese having died without heirs, their salaries became mahlûl, vacant. These vacant salaries equalling a stipend of 120 akça daily were added to the daily allowance of 30 akça from the Diyarbekir cizyesi, and granted to the dervishes of Gülanber tekye on condition that they pray to God for the good of the people. The increase was given by the government because aside from the 30 akça mentioned, the tekye possessed no other source of income, and it was evident that the dervişân and the poor could not be fed on this meagre stipend.[27]

The fate of Şeyh Hüseyin Efendi of the Halvetiye order is another example of the decision to end supernumerary donatives given by provincial governors for the support of the dervishes. While a monthly salary of 50 guruş had customarily been given to Şeyh Hüseyin Efendi of the Boğazdaki Halvetiye tekye, by the requirements of the Tanzimat-ı hayriye this stipend was discontinued. Şeyh Hüseyin's income came from the Halvetiye tekye in Yozgad kaza in the sancak of Bozok. Since his salary had been allotted from the profits of the provincial governors, according to the legislation of the Tanzimat, this source of income was cut off. It was decided, however, that since the şeyh was found to be deserving of compassion, an additional 30 guruş would be added to the

[26] *Cevdet Evkaf* No. 8330, 7 L 1232/1817. Telhis. Kutahyada Mevlâna sülâlesinden Sultan Ergûn hanekâhının yevmî yüz akça taamiyesi kâfi gelmediğinden tezyidi Anadolu valisi Hurşit Paşa tarafından rica edilmiş ise de şimdilik tevkif edilmesine irade buyurulduğuna dair.

[27] *Cevdet Evkaf* No. 12198, 13 RA 1234/1819. Bağdad kazasında Gülanber kasabasında Gülanber Nakşibendî tekyesine Diyarbekir cizyesi malından muhassas mebalığın fukara ve dervişlerin taamiyesine kâfi gelmemekte olduğundan mahlûlünden bir mikdar ilâve edilmesine dair.

former sum, making a total of 80 guruş monthly, and this decision would be communicated to the Bozok provincial council via an official report. The source of Şeyh Hüseyin's income was no longer to be the revenue of the vali, the provincial governor, but the vacant salaries kept by the treasury.[28] The date of the memorandum is 1257/1841, two years after the beginning of Tanzimat legislation.

An official memorandum of 1258/1842 describes the cessation of unauthorized government revenue spending for the support of the tekyes. In addition to the rations which had been customarily given to the Siroz Mevlevîhanesi from the profits of city revenue (şehir temettüâtı), the eight okka of coffee, forty okka of oil and honey, and six bushels of rice which had usually been given during the sacred month of Ramazan had been cut off after the declaration of the Tanzimat. Upon their petition, however, a certain amount of money, evidently less than the former amount, was to be given to the dervishes from the profits of Siroz kaza on a monthly basis.[29]

The continuation of an allotment of funds from the revenue of Siroz kaza represents an exception to the rule that the dervishes were not to receive aid from state or local income. In general, the government held to the principle that such support should be eliminated, and in its place vacated salaries of religious offices retained by the treasury should be substituted, provided this money was available; otherwise, no allotment was to be made. An official memorandum of 1854 is illustrative of this policy. Upon the death of Şeyh Bedirîzâde Abdullah Efendi, the five acres of land in his possession in the region of Jerusalem were taken over by the treasury. A communique from the province declared that although the salary of 100 guruş per month of the deceased şeyh had been conferred by the district to his sons Şeyh Hamid and Mehmed Ümer, this amount was below a sufficient degree. Since the sons of the şeyh were worthy of benevolence, it was recommended that an additional amount be increased to whatever level was adequate, and added to the existing salary. But that increase would only be forthcoming if a vacancy were to occur in the future from some vacated salary taken over by the treasury.[30]

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[28] *Cevdet Evkaf* No. 16327, 20 N 1257/1841. Boğazdaki Halvetiye tekyesinin şeyhi Hüseyin Efendiye verilmekte iken tanzimat-ı hayriye icabınca katolunan elli guruş maaşına otuz guruş daha zammla seksen guruş olarak verilmesine dair.

[29] *Cevdet Evkaf* No. 17095, 5 CA 1258/1842. Siroz mevlevihanesine şehir temettüâtından verilen tayinattan başka ramazanlarda verilegelen altı kile pirinç kırk okka yağ ve bal ve sekiz okka kahve tanzimatın ilâmından sonra kesilmiş olduğundan ramazanlarda verilmek üzere mezkûr tekye dervişânına taamiye olarak bir mikdar para tahsisine dair.

[30] *İrade Meclis-i vâlâ* No. 13016, 8 ZA 1270/1854. Kudus-ı şerîfte Bedirîzâde şeyh Abdullah Efendiden münhal arâzînin hazine-i celîleden zabtiyle iki nefer mahdumına maaş tahsisine dair.

It is evident from these instances cited that the government policy established from the beginning of the Tanzimat toward the dervishes was that of a direct takeover and control of their revenue. The dervishes then necessarily became salaried dependents of the state, being provided with what was little more than a subsistence allowance. This income, more often than not, had to be petitioned for after the government took possession of the evkaf property of the dervishes.

Further, a system was instituted of granting salaries and increases in income only from vacated pay of religious officials who died without heirs. The vacant mahlûl evkaf property which was the source of income for these religious posts was escheated to the Crown; only when vacancies occurred, upon the death of a religious official, were revenues to be granted. This policy effectively brought to an end the free issue (açıktan: outside of regular income) of state revenue to any and all dervishes by government officials in the provinces, — a practice which had put a strain on the treasury. This restriction provided for a balancing of accounts, but proved seriously detrimental to the livelihood of many dervishes. Any dervish who was not enrolled in a register which stated that he was entitled by berat title deed to revenue ceased to receive any income from the state.

A memorandum of 1257/1841 demonstrates this policy. As a result of the Tanzimat, the şeyhs and dervishes of Gelibolu had been assigned a salary of 30 guruş each. But since Şeyh Cemaleddin of the Sadî order had not been written into the salary register, he had been deprived of the said amount which had been allocated from the revenue of local tax agents. It is stated in the report that it was henceforth strictly forbidden to assign salaries openly (açıktan) and freely. Only after an investigation of vacant salaries available, and only upon the written request of those who were deserving of such a salary, was a suitable amount of income to be granted, and this was the regulation to be followed. Henceforth, an equivalent or increase in salary was not to be assigned without arranging for the same amount to be taken from vacated salaries held by the treasury: to assign income freely from revenue was mugayir-i nizam, entirely contrary to regulation.[31]

From the reign of Mahmud II, it was the aim of the Ottoman government to put an end to granting income to dervishes from mukataa and cizye tax revenue. In 1250/1834 a request was made that taamiye provisions be increased for the dervishes of Kabulıç karyesi tekye in the kaza

[31] *Cevdet Evkaf* No. 18617, 20 N 1257/1841. Tanzimat-ı hayriye münasebetiyle Geliboluda bulunan şeyh ve dervişlere otuzar guruş tahsis olunan maaş defterine Sadî tariki Cemaleddin Efendi yazılmayarak mahrum kalmış olduğundan otuz guruş tevcihine dair.

of Alaylı on the Black Sea coast, and to the fukara poor of Şeyh Selâmi zâviye in the district of Solak Sinan in Üsküdar. The petition was made by the postnişin of Şeyh Selâmi zâviye and was addressed to the office of the grand vizir. The letter stated that the dervishes of the zâviye were receiving provisions which were taken from the revenue of the İstanbul emtia gümrüğü, the customs dues placed on merchandise. Whereas the dervişân had been assigned a vazife stipend of 50 akça daily, according to the exigencies of time and circumstance, it became insufficient, and an additional amount of income was therefore requested. In like manner, the dervishes and fukara poor of Kabulıç karyesi on the Black Sea were previously drawing an income of 40 akça daily from the revenue of the Ereğli gümrük mukataası, and a request was made that the amount be increased from the said customs revenue to an additional 40 akça, bringing the total to 80 akça daily. The request was not an idle one, for it is stated the dervishes of the region were subject to necessity and suffering from distress because of a lack of sufficient provisions. While it was authorized that the revenue be increased to a total of 120 akça, it was specifically stated that it was henceforth prohibited to confer any salary from mukataa and cizye revenue, and an imperial edict was addressed to the governors of all sancaks to that effect.[32]

Sometime later, a memorandum of 1258/1842 stated in the strongest possible terms that no revenue was to be given to anyone without a valid title deed from the government proving that he was entitled to state income. The official report declared that whereas it had previously been the custom in regions within Tanzimat administration for provincial governors (valis), deputy lieutenant governors (mütesellims), and mayors (voyvodas) to give to the tekyes and zâviyes and to poor mendicant dervishes a monthly or yearly stipend, or rations of wheat, or some other form of supplementary rations, and whereas these payments had been made by an imperial edict as formerly from the revenue of the province, since the vast majority of the recipients possessed valid title deeds, there was no problem concerning them. But there were some who said, "I had such and such a salary or rations regularly coming to me, but because of the Tanzimat they have been cut off." And upon saying this they presented a petition requesting these rations, and usually got them.

It was discovered that officials in the provinces were giving money and rations to any one who requested them, simply by declaring that the introduction of Tanzimat legislation had deprived them of income. Since

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[32] *Cevdet Evkaf* No. 8323, 16 R 1250/1834. Üsküdarda Solak Sinan mahallesinde Şeyh Selâmi zâviyesinin ve Karadeniz sahilinde Alaylı kazasının Kabulıç karyesindeki tekyenin dervişleri taamiyesinin artırılmasına dair.

this free allotment of income was causing damage to the treasury, it became necessary to set down conditions for the disbursement of these payments. It was declared that henceforth, whenever requests were presented by dervishes or anyone else for the payment of rations by the valis, mütesellims, and voyvodes, and a senedat title deed of authorization was not presented by them, or when it was found that the asked for appropriations were not recorded in the capital, and were not, in truth, assigned by the provinces, then permission was not to be given to them to be paid from the revenue of the provinces. This was the answer to be given to them, and their petition was to be regarded as invalid. Whenever appropriations became vacant, the matter was to be communicated at once to the capital in order to prevent these payments being given to persons who did not have a title deed in their possession.[33]

An example of the government's determination to hold the line in sanctioning increased expenditure for the dervishes is found in an order of 1263/1847. The Mevlevî şeyhs of İstanbul had petitioned the government stating that their monthly salaries amounting to 1000 guruş had become inadequate, since all that remained after expenses for each two şeyhs to live on was little more than 100 guruş. It is indicated that the 1000 guruş monthly allotment had been given to the Mevlevî şeyhs by the Evkaf-ı Hümayûn treasury from the time when the revenue of the Mevlevî tekyes in İstanbul had been taken over by the treasury. Further, the şeyh of Kasım Paşa Mevlevîhanesi, Şeyh Şemseddin Efendi, had been suffering from severe distress for want of adequate income, and a grant of sufficient means was requested for him.

The reply of the government was that since Şeyh Şemseddin had no other source of income other than his declared salary, a monthly increase of 750 guruş was to be granted. With regard to the Mevlevîhaneler in Yeni Kapı and Galata, each was authorized an allotment of 500 guruş, and the Mevlevî tekyes in Beşiktaş and Üsküdar were granted an additional 150 guruş, and these increases appeared to the government to be equitable. In addition, a yearly outlay amounting to 27,000 guruş was to be paid by the Evkaf-ı Hümayûn treasury on condition that the dervishes pray for the good of the sultan.

However, this increase in salary was only provisionally authorized, for neither the Hüdavendigâr evkafı nor the Evkaf-ı Hümayûn treasury could cover the additional outlay. As there were no reciprocal funds from the mentioned vakıf or from the Evkaf Ministry's treasury, the principle was again repeated that the allocation of unbalanced expenditures (bilâkarşılık masarıf) was against regulation. For these kinds of increases to

[33] *Maliyeden Müdevver* No. 9061, dated 1258/1842-3.

be paid, some kind of balanced financial provision would have to be implemented.[34]

The decision to take over dervish evkaf property had been put into effect immediately within all provinces under the jurisdiction of the Tanzimat, which meant within those areas that had the administrative personnel to effect such a takeover. The seizure of evkaf lands and other property by the state must have been sudden and complete, as time and again the şeyhs and dervishes are described as having been reduced to a state of destitution. For example, Şeyh Abdulhamid of the Reha Mevlevîhanesi stated that for several years he had not obtained the revenue of a timar which he possessed, which included the produce of orchards in the town of Reha proper and elsewhere. Owing to the fact that this revenue had not come into his possession, the şeyh complained that he had been reduced to a state of ruin. The government's response was that it was "incompatible" for the ownership of the fief to be returned to the şeyh, since the timar had been taken over by the treasury, the hazine-i celîle. But in order for the dervişân and fukara poor to be protected from the conditions of poverty, a suitable amount of provisions was to be assigned from the revenues of the province on a monthly basis, and a stipend of 750 guruş was to be given Şeyh Abdulhamid for life, which would be paid month by month from the revenue of the district, each monthly allotment equalling 62.5 guruş. Moreover, the revenue the şeyh had not obtained up to the end of 1260/1844 would be handed over to him.[35]

The government also began a campaign to root out a number of vagabond dervishes who were living in dervish lodges, theological schools, and inns in the cities of İstanbul. An official memorandum stated that the number of vagabonds ignorant of the new regulations in effect had increased; they were located in the community of students and dervishes and were found in the tekyes, hans, and medreses of İstanbul, Eyüb, and Üsküdar. The government solved the problem by recording the names of these vagrant dervishes and students in registers by a commission of officials in each of the districts, and every one of them was tied to a voucher and a surety, and their coming and going was recorded in order to prevent them from taking refuge in tekyes and crowding into them for shelter. It was ordered that any person who was unrecorded and ignorant of the regulation regarding residency was not to be accepted in the

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[34] *İrade Meclis-i vâlâ* No. 2506, 23 Z 1263/1847. Dersaadetde vâki mevlevîhaneler şeyhleri efendilerinin zamm-ı maaşlarına dair.

[35] *İrade Dahiliye* No. 4881, 28 M 1261/1845. Reha mevlevîhanesi şeyhi Abdulhamid Efendinin mutasarrıf olduğu timarın hazineden zabtiyle maaş tahsisine dair.

tekyes. And if there were to occur any contrary action on the part of the şeyhs in charge of the tekyes, they were to be held accountable to the Şeyhülislâm, and after they had been censured by him, the matter would be made known to the office of the prefect of İstanbul, the Şehiremaneti.[36]

All the dervishes residing in the tekyes in İstanbul, Eyüb, and Üsküdar and the cities within the greater region of İstanbul had been recorded by the year 1860. Şeyh Necatî Efendi had been in charge of the registration for the region of İstanbul, Şeyh Rüşen Efendi for the district of Üsküdar, and Şeyh Yunus Efendi for the environs of Beşiktaş. As each of these şeyhs had carried out their commission and performed it well, they were worthy of an imperial largess, and were granted 1500 guruş for their work.[37] By means of this registration, the government limited the assignment of provisions to only those who were legally entitled to them, and thereby reduced its expenditures to the zâviyes and tekyes located in the capital, whose total number had been estimated as amounting to 445.[38]

In conclusion, the policy of the Ottoman government towards the religious orders was to deprive them of their evkaf property which was their livelihood, and to leave them, in many cases, to fend for themselves in finding some means of subsistence. While the dervish orders continued to survive into the early twentieth century, dispossessed of their revenue, they were little more than a feeble reflection of the impressive institution they once were.

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[36] *İrade Meclis-i vâlâ* No. 19043, 16 ZA 1276/1860. Tekâyada bulunan dervişânın amed-ü-refti kayıdlarının İstanbul mahkemesi tarafından talibe kâtibi marifetile icra olunmasına ve kâtibinin maaşına dair. See as well *İrade Meclis-i vâlâ* No. 18789, 19 B 1276/1860. Medarıs ve tekâya ve hanlarda talebe ve derviş heyetinde olan serseri eşhas hakkında ittihaz olunacak usûle dair.

[37] *İrade Dahiliye* No. 29963, 25 Ş 1276/1860. İstanbul ve bilâd-i selâsede kâin tekâya dervişânını tahririne memur şeyh efendilere atiyye-i seniye itasına dair.

[38] Enver Behan Şapolyo, *Mezhepler ve Tarikatlar Tarihi* (İstanbul, 1964), 472. For a complete listing of derviş tekyes in İstanbul arranged according to the various religious orders and the districts they were located in, see pp. 460-72. According to the list given in Ahmed Munib Üsküdarî's *Mecmuâ-ı tekâya* (İstanbul, 1307/1889), the total number amounts to 305 tekyes in İstanbul. But this may be a mistake in addition on the part of the author, for the sum total of his list comes to 307. In John P. Brown's *The Dervishes; or, Oriental Spiritualism* (London, 1868), 316-29, a list of dervish tekyes in İstanbul is provided, but the list he gives could not be complete, as the total only comes to 255. According to Samuel Anderson, there were 258 tekyes in İstanbul in 1922, and previously as many as 319, but 61 had been destroyed by great fires. See S. Anderson, "The Dervish Orders of Constantinople," *Muslim World* 12 (1922), 53.

CHAPTER SEVEN

THE MANNER OF PROVINCIAL EVKAF ADMINISTRATION

The Tanzimat-ı hayriye or beneficent reforms introduced on 2 November 1839 in Gülhane Park is a watershed in Ottoman history, marking the beginning of a series of legislative reforms for the period 1839 to 1875. For an Islamic state, a number of these reforms were truly revolutionary in nature. How revolutionary they were is underscored by Reşid Paşa's declaration in the Imperial Rescript of Gülhane that there was no longer to be any distinction between Muslim and non-Muslim subjects of the empire. Zimmis, or non-Muslims, were to have the same status and rights as Muslims, thereby eliminating the basic relationship Muslims had toward subject peoples since the beginning of Islam. The decree of Gülhane abrogated the chief political characteristic of the Muslim community, its dominant status.[1]

In addition to this significant shift in the relationship between ruler and ruled, a series of measures were enacted in the sphere of religious foundations which were also revolutionary. The administration and supervision of evkaf had been the special province of the kadıs since Umayyad times. But, owing to their flagrant abuse of this charge, evkaf affairs were removed from their jurisdiction and placed under a secular administration directly responsible to the Evkaf Ministry. This change in the supervision of evkaf occurred as a result of a summary report made by Elhac Hüseyin Efendi, senior clerk and chief secretary to the grand vizir, who was commissioned in 1838 to inspect the affairs of the kadıs (şer'iye memurları) in the city of İzmir and its environs.

His report was that complaints had been made against certain officials in the canonical courts. Specifically, it was charged that the kadıs would give judgments both for and against litigants in some cases. What is more, they would recommend for office both successors and predecessors of religious posts, issue statements that were contradictory to one another, and charge exorbitant fees as bribes to appoint unqualified persons to religious offices whenever a position became vacant upon the death of the holder. The latter instance referred to a religious office whose appointment was hereditary according to the conditions of the founder of a family vakıf; the office passed to the founder's descendants

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[1] See *Düstur* I, tab'-ı sâni, 1-12.

until the extinction of the family line, at which time it was given to a person who was, in the opinion of the kadı, the most qualified for the position. But these posts were not being given to the highest qualified, but to those who gave the highest bribes.[2]

Consequently, in view of these violations, it was recommended that the power to confer vacant offices and salaries be taken out of the hands of the kadıs and given to evkaf officials in the provinces known as muaccelât nâzırs; and in places where these officials did not exist, the duty fell to mütesellims, — deputy lieutenant governors, and to voyvodes.[3] These salaried evkaf officials were to be appointed from the local notables (vücuh-i mahaliye) in the provinces of Anadolu and Rumelia, and were to be commissioned by the Evkaf-ı Hümayûn and Haremeyn ministries.[4] Two classes of muaccelât nâzırs were created, one responsible to the Evkaf-ı Hümayûn, and the other to the Haremeyn ministry. But after the Haremeyn Ministry was annexed to the Evkaf-ı Hümayûn Nezareti on 10 Rebiyülevvel 1254/1838, the two separate officials were united under one office and were designated as muaccelât müdürleri.[5]

An imperial decree dated 1253/1837 put the matter clearly:

> While it has been the customary procedure to confer on persons the office of administrator (tevliyet), preacher (hitabet), and prayer leader (imamet) by the kadıs and their deputies (şer'iye memurları), since excessive and exorbitant fees have been taken by these şer'iye officials, and whereas posts have been conferred by them upon those who are either unqualified or incompetent, and in view of the fact that contradictory decisions both for and against litigants have been given by the kadıs and their substitutes (naibs), henceforth the issuing of these decisions and the conferral of these offices will be made by officials placed in the sancaks and the eyâlets who are known as muaccelât nâzırları, and in places where these officials do not exist, by voyvodes and mütesellims (governors and deputy lieutenant governors).[6]

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[2] *Cevdet Evkaf* No. 25062, 24 Z 1253/1838. İmamet ve hitabet ve tevliyet cihetlerinin ehline tevcihi usûlden iken şer'iye memurları tarafından fahiş harc alınarak naehlleri inha ve sonra da hem aleyhinde ve hemde lehde muhalif ilâmlar ita edilmekde olduğundan badema istida ilâmlarının bu işe memur konulan eyâlet ve sancaklarda muaccelât nâzırları ve bulunmayan yerlerinde voyvoda ve mütesellim tarafından hasbi inha edilmesi hakkında emir İzmir ve mulhakatı hakimlerine vardığı hakkında.

[3] *Cevdet Evkaf* No. 25062.

[4] *Cevdet Evkaf* No. 25062; *Evkaf-ı Hümayûn Nezaretinin tarihçe-i teşkilâtı*, 33. The date is mistakenly given in *Evkaf-ı Hümayûn* as Rebiyülevvel on page 35. After the Evkaf-ı Haremeyn was annexed to the Evkaf-ı Hümayûn Nezareti on 10 Rebiyülevvel 1254/1838, the two separate muaccelât müdürleri were united as one official with the same title. Later, the term was changed to evkaf müdürü.

[5] *Evkaf-ı Hümayûn*, 35.

[6] *Cevdet Adliye* No. 4933, 9 N 1253/1837. For a text of the same decree addressed to the hakims of İzmir and its environs, see *Cevdet Evkaf* No. 25062, 24 Z 1253/1838.

Elsewhere, the peccadilloes of the kadıs and their subordinates were less stressed; rather, their inability to adequately attend to evkaf affairs was given as the official reason for their being deprived of this function. It was declared that while previously administrative business for all evkaf in the regions of Anadolu and Rumeli had been carried out by the provincial kadıs (hükkâm-ı bilâd), since these judges were occupied with legal matters, they were incapable of attending to evkaf affairs in a worthy manner. And since the effect of this system had been the decline of evkaf revenue — the actual amount sent to the treasury being insignificant — the desired good administration of the two evkaf treasuries had not occurred. When the matter was further looked into, according to the testimony of a number of informed individuals, there did not seem to be any justifiable reason for this state of affairs. Therefore, with a view to protecting the Haremeyn and Evkaf-ı Hümayûn treasuries against a further loss of revenue, it was decided that henceforth evkaf affairs would be administered in an entirely different fashion, and, according to the tenor of the decree, put into proper order.[7]

An official memorandum of 1259/1843 describes in an informative manner the method of appointment of evkaf officials in the provinces and the way in which they were to be paid:

> Henceforth, aside from legal matters (umur-ı şer'iye), the kadıs will not interfere in other affairs, but evkaf will be administered by the appointment of individuals who are experienced and chosen from the notables of the province by means of the finance officials (defterdarân) and the provincial governors. And they will send all of the evkaf revenue, together with signed and sealed registers, to the Evkaf-ı Hümayûn treasury, and the abovementioned officials will be assigned a suitable salary. These matters have been stated and transmitted by an official report made by Evkaf-ı Hümayûn Nâzırı Numan Mahir Bey of the rical class, and the matter has been discussed in the High Judicial Council (Meclis-i Ahkâm-ı Adliye ve Umumiye).
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> It is indispensable that each of these officials arise in the places where it is necessary to obtain evkaf revenue with care and attention, and that the salary to be given to these officials, whatever it may be, is to be in the form of a fee; for if it were necessary to assign and send a special salary for each official, it would only mean additional expense. Thus, having preserved evkaf property from loss and needless expenditure, evkaf affairs will be transferred to suitable and useful men from officials such as the customs superintendents (gümrük umenası), or from local notables in those places chosen by the defterdars and their lieutenants in each district. And this sort of official will not be assigned a salary outright, but a suitable and equitable fee from the evkaf revenue of each province will be given, which is in accordance with the holy law, and according to the revenue that each province

[7] *Maliyeden Müdevver* No. 9061, 1259/1843, page 52.

> supports, one para in a guruş or one guruş in ten will be given ... and it is necessary to always take care in the matter of appointing men to evkaf affairs, and to beware not to perpetrate greed and fraud whenever there occurs a sale at the time of vacancy of evkaf landed and roofed property.[8]

It is interesting to observe that from the very beginning it was felt necessary to include a caveat regarding the potential abuse of office that could be committed by these newly created evkaf officials. The Ottoman government had been long familiar with the dishonesty of nâzırs, mütevellis, and kadıs, and sensed the need from the outset for strong sanctions against the misappropriation of evkaf revenue:

> And it will be the duty of the evkaf officials to send to the Evkaf Treasury the revenue and title deeds together with the signed and sealed registers of evkaf which have no mütevelli or representative. And if it so happens that anyone should dare to act or behave in a manner contrary to the tenor and meaning of this proposed draft law, or in any way act inappropriately, his activities will be investigated, and an official report will be drawn up concerning him.[9]

As a further check on the actions of the evkaf officials, it was stated that their accounts were to be inspected once every three months by the provincial finance ministers:

> The evkaf memurs are officials within the retinue of the provincial governors (müşirân-ı fehham) and the finance ministers (defterdarân), and they are to obtain their fees from the revenue derived from the transfer and sale of evkaf property; and these officials are not to conceal, spend, or lose one akça of evkaf revenue, and by means of control, their accounts will be inspected once every three months by the finance ministers and their representatives.[10]

An official memorandum of 1259/1843 set forth the administrative duties of the new evkaf officials for evkaf without nâzırs (bilânezaret) annexed by the Evkaf Ministry, and for all evkaf in the provinces attached to the Evkaf-ı Hümayûn and Haremeyn ministries:

> As for all evkaf-ı şerîfe within the Haremeyn and Evkaf-ı Hümayûn ministries in the empire, together with those evkaf that are without nâzırs which have been appended by ordinance to the Evkaf-ı Hümayûn Nezareti, with regard to the sale and transfer of all vacant landed and roofed property, the fees to be taken for the transfer of their title deeds, the salaries of officials and the amounts destined for the Evkaf Treasury, these financial matters are to be inspected by the provincial governors and finance ministers and their representatives, and administered by evkaf officials who

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[8] *Maliyeden Müdevver* No. 9061, page 53.
[9] *Maliyeden Müdevver* No. 9061, page 52.
[10] *Maliyeden Müdevver* No. 9061, page 52.

> are to be appointed according to a memorandum and draft law presented by the Evkaf Ministry ....[11]

As these official memoranda indicate, all evkaf located within the protected imperial dominions of the empire were to be administered by newly created evkaf officials, the muaccelât nâzırs, who were supervised by finance ministry officials, the maliye memurları. An imperial decree of 17 Rebiyülâhir 1259/1843 tells of the manner in which these evkaf officials were to be introduced into the province of Damascus.

The imperial irade states that most of the müsakkafat and müstagallât of the eyâlet of Şam (Damascus) had fallen into ruin because it had passed into the hands of those who were incompetent (naehl). According to the wording of the decree, the transition was to be gradual, and little by little the new enactment would gain approval by the people. One Malikîzâde Ahmed Efendi from the meclis of Damascus who was of the müderrisîn-ı kirâm (a grade in the hierarchy of the ulema) and one of the respected notables (mu'teberân-ı vücûh) was to be appointed in charge of evkaf affairs as muaccelât nâzırı. He was found to be capable and competent for the office, and his high rank and position would make him acceptable to the people in the province of Damascus. He was to be conferred a decoration special to his rank with a view to increasing his official duties and the zeal he was to display in carrying out his office. It is interesting to observe how the government initially proceeded with caution in the transformation of evkaf administration: evkaf affairs were to be put on a new footing and put in order "imperceivably" (sezildisizca).[12]

From 1826 to the end of Mahmud II's reign in 1838, not only Bektaşi evkaf, but the evkaf that was attached to the Evkaf-ı Hümayûn Nezareti was administered by the Mansure Hazinesi, the treasury for Mahmud's new army corps. The treasury received its name from the title of this new regiment, the Asakir-i Mansure-i Muhammediye, the Victorious Army of Muhammed.

The manner in which this evkaf was controlled followed the Bektaşi precedent. The tithe revenue for the evkaf in a district was auctioned to the highest bidder, who purchased the right to collect this revenue as an iltizam or tax farm. The amount paid to the treasury at auction was the bedel-i iltizam. The tax collectors were either the mültezims themselves or their agents, who would collect the evkaf revenue of a region, — and more, in order to recover the amount they had originally bid. The

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[11] *Maliyeden Müdevver* No. 9061, 52.

[12] *İrade Dahiliye* No. 3735, 17 R 1259/1843. Şam-ı şerîfte kâin evkaf müsakkafatının imârı zımnında Malikîzâde Ahmed Efendinin muaccelât nâzırı nasb olunması ve saire dair.

religious officials who had previously administered the vakıf as mütevellis or nâzırs would receive a vazife, or fixed stipend from the bedel-i iltizam downpayment received by the Mansure Treasury.

In some cases, this new arrangement created a financial crisis for those mütevellis and nâzırs who had come to draw support for their livelihood from evkaf revenues under their management. Strictly speaking, it was not possible to derive a living from an administratorship, for the amount granted to mütevellis and nâzırs as stipulated in the vakfiye foundation charters was never more than a nominal sum. With government control of evkaf revenue, the treasury ensured that these administrators only received the fixed minimal fee assigned to their office. The only instance where the administrators of a vakıf were legally entitled to a stipend equalling a living wage was when they were also employed in some religious post, such as the müderris of a medrese, or the şeyh of a tekye or zâviye. In a number of cases, whereas these religious functionaries formerly lived well, from the time they were deprived of their administration and collection of vakıf revenue, they were placed on a fixed salary determined by the government. This fixed stipend in many instances proved to be inadequate, and these religious officials were then obliged to petition the government for an increase in pay.

But increases in pay, or assignments of salary to şeyhs, dervishes, professors of colleges, prayer reciters, kadıs, mollas, imâms, and all other religious functionaries were contingent upon those funds being available in the treasury, normally from corresponding vacant offices and salaries retained by the treasury known as mahlûlât. If a corresponding office or revenue were not in the treasury from mahlûl, then it would not be assigned.

According to a formal memorandum of 1253/1838, the Mansure Treasury had also taken over religious posts and salaries which had become vacated upon the death of the holder. A memorandum given by the chief treasurer's office describes the takeover by the Mansure Hazinesi of tevliyets (office of mütevelli) which had become vacant from the vakıf of İbrahim Paşa cami, mekteb, and mescid which were located in Silivri Kapısı. It is stated that fixed salaries pertained to all the vacant religious offices taken over by the Mansure Treasury. These salaries were retained by the treasury, to be given at a later date to those prebendaries who qualified for them.[13]

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[13] *Cevdet Evkaf* No. 11982, 14 ZA 1253/1838. Mansure hazinesine zaptı cümle-i mukarrerattan olan münhal cihattan Silivri Kapusunda vâki İbrahim Paşa cami ve mescidinin inhilâl eden tevliyetinin Evkaf Nâzırı Ahmet Ziver Efendinin inhası mucibince Mansure hazinesince zaptı hakkında.

The normal procedure was for the Mansure Treasury to turn over the bedel-i iltizam, the amount the tithe revenue was auctioned for, to the Evkaf-ı Hümayûn Treasury. But this was not always done. There are, in fact, a number of instances where the Mansure Treasury, after having taken over the property of a vakıf, failed to turn over its revenues to the proper vakıf authorities. A memorandum of 1253/1838 declared that while the mukataa of Şeyhler and Şahabeddin and other arable fields in the kaza of Beypazarı from the evkaf of Davut Paşa were in the possession of the Mansure Treasury, the bedel-i iltizam amounting to 1800 guruş for one year had not been handed over to the Evkaf-ı Hümayûn Hazinesi.[14]

A petition (arzuhal) dated 1254/1838 makes the same complaint. The petition was written by the son of Şerîfe Safiye Hatun, the mütevelli for the Koca Mehmet evkaf with its mukataat in the kazas of Alaplı, Mora, and Benderkili in the sancak of Bolu. The mukataat and its revenues belonged to a cami-i şerîf, mekteb-i münîf, and other evkaf-ı şerîfeler constructed previously in the region of the Mevlevîhane at Yenikapı in İstanbul by the famed Koca Mehmet Paşa. The mütevelli specifically requested that there be no intervention by the Mansure Hazinesi or by anyone else in the revenue of the evkaf which had been taken over and sold as iltizam by the Mansure Treasury the year before. The mütevelli asked that the revenue for the year 1252-3/1836-7 not be hindered or interfered with (mümanaat ve taarruz).[15]

In 1257/1841 a petition complains of a similar situation. In that year the tithe was taken over by the Treasury, the Maliye Hazinesi. The tithe revenue (vakıf âşârı) belonged to the tevliyet of İnegazi zâviyesi in Nazilli kaza located in the sancak of Aydın. The mütevelli of the vakıf was müderris Mehmet Ataullah Efendi, grandson of the sultan's former physician, Behçet Efendi. Mehmet Ataullah Efendi asked that the bedel âşârı, the price paid by the mültezims for the right to collect the vakıf revenue, be given to him, since he had not received the revenue from the time the vakıf âşârı had been taken over by the Maliye Hazinesi.[16]

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[14] *Cevdet Evkaf* No. 11667, 3 ZA 1253/1838. Davutpaşa vakfından Beypazarı kazasından Şeyhler ve Şahabeddin ve sair mezraaları ve tevabii mukataası Mansure hazinesi tarafından deruhde olunduğu halde bedel-i iltizamın evkafa teslim edilmediği hakkında.

[15] *Cevdet Evkaf* No. 21266, 16 M 1254/1838. Haremeyn-i şerîfeyn hazinesi tarafından idare olunan evkaftan Koca Mehmet Paşanın Bolu sancağının Alaplı ve Mora ve Benderkili kazaları dahilinde bulunan evkafı iltizamı Mansure hazinesi ihale olunduğundan bahisile gerek kendi ve gerek aharı tarafından müdahale edilmemesi içün mütevelliyesi Şerîfe Safiye mahdumu tarafından.

[16] *Cevdet Evkaf* No. 11497, 29 B 1257/1841. Padişahın eski baş hekimi Behcet Efendinin torunu müderris Mehmet Ataullah Efendinin tasarrufunda bulunan Nazilli kazasındaki İnegazi zâviyesi tevliyetine âit tanzimat-ı hayriye mucibince vakıf âşârın Maliyeden zaptedilmesi usûlü münasebetile bir kaç senedir alınmayan âşâr bedelinin verilmesi hakkında.

Another petition from a mütevelli dated 1257/1841 requested that the bedel-i âşâr be paid to the vakıf by the Maliye Hazinesi since the villages and arable fields from the mukataat of Hacı Gevher Sultan evkafı in Hezargrat, Yenice, Silistre, and other places had been taken by muhassıls (tax collectors). From the beginning of 1841, the lands and villages of this vakıf had been controlled and tithed by the provincial muhassıls in accordance with the regulations of the Tanzimat-ı hayriye.[17]

In the same year a request was made by the mütevelli Osman Efendi concerning the payment of the share belonging to him of the revenue that had been collected by the muhassıls following the requirements of the Tanzimat ordinance. The mütevelli asked for his share of the revenue belonging to the tevliyet of Gündüz Bey vakfı in the village of Çeltikçi located in Göreli kazası. Since the beginning of 1841 the vakıf had been annexed to the Evkaf-ı Hümayûn Nezareti.[18]

And again in 1257/1841 the government received another petition from a mütevelli asking for the revenue of land which had been taken over and tithed by the muhassıls of the district. Specifically, the mütevelli Mustafa Efendi of Davud Dede zâviyesi in the village of Aşıklar within the kaza of Bigadıç petitioned that the previous year's revenue of 1256/1840 which had been taken by district muhassıls be returned and payed to him. Mustafa Efendi stated that he held the zâviyedarlık of the dervish convent by an official patent (berat-ı âli), and was allotted a fixed income as recorded in the vakıf's register. But the government replied that it was in no way recorded or indicated in the register that the mentioned Mustafa Efendi held the zâviyedarlık, or was entitled to a share in the revenue.[19]

These petitions may be regarded as protests by the mütevellis against the new system of evkaf administration by the central government. Their time-honored financial interests were being undermined, and they did not take their loss of income lightly. Once the provincial tax collectors had obtained the tithes of the vakıf, they felt the revenue should then be turned over to them, since they were the acting administrators. What

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[17] *Cevdet Evkaf* No. 16526, RA 1257/1841. Hezargrat, Yenice, Silistre, ve saireden Hacı Gevher Sultan evkafı mukataatından kura ve mezraaların tanzimat-ı hayriye mucibince muhassıller marifetile zapt ve taşrile bedellerinin Maliye hazinesinden vakfa tediyesi hakkında.

[18] *Cevdet Evkaf* No. 26072, 22 Z 1256/1841. Göreli kazasının Çeltikçi karyesinde vâki Gündüz Bey vakfı tevliyetinden dolayı almakda olduğu hasılât tanzimat-ı hayriyeden dolayı muhassıl tarafından tahsil edildiğinden hasılâttan kendine aid hissenin itası hakkında mütevelli Osman imzalı.

[19] *Cevdet Evkaf* No. 26445, C 1257/1841. Bigadıç kazasında Aşıklar karyesinde vâki Davut Dede zâviyesi vakfı muhassıllık tarafından zapt ve taşir olunan arâzîsi hasılâtının meşrutulehine tesviyesi hakkında.

they failed to realize was that their control of the revenue was not a part of the new arrangement; their role as managers of evkaf funds had effectively come to an end.

But this was not the case for all evkaf holdings. The government was required to pay the full bedel-i iltizam to the mütevellis of müstesna evkaf, the independently administered estates in mortmain that were not subject to state control. These evkaf belonged to the Aizze-i münîfe and Guzat-ı kirâm, to the chief dervish orders such as the Mevleviye, and to the early Ottoman commanders as Gazi Evrenos Bey. An official memorandum of 1279/1862 restated the regulation that the tithe revenue of the Guzat-ı kirâm was to be administered by the mütevellis of these evkaf exclusively, and was not to be interfered with by the Maliye Hazinesi.[20]

While these evkaf were annexed to the Imperial Evkaf Ministry and were tithed by the agents of the Maliye Treasury, their revenue was to be turned over directly to the mütevellis. Thus, for example, the evkaf of Zağanos Paşa, Ahmed Bey, Sitti Hatun, and Fatma Sultan in Balıkesir were annexed to the Imperial Evkaf Ministry in accordance with the requirements of the Tanzimat-ı hayriye, and were tithed by the muhassıls of the district. A receipt of 1256/1840 indicated that the bedel-i iltizam had been taken by the mütevelli of the vakıf, Mehmed Tayfur Bey, from the Maliye Treasury. The total year's revenue of 4900 guruş was given to the mütevelli specifically in accordance with the provision that the evkaf was bilmeşruta tevliyetleri uhdesinde olan vakıf, that is, vakıf which was in the possession of the mütevellis to be administered solely by them according to the conditions of the founder.[21]

As mentioned, it appears that for the latter part of Mahmud II's reign from 1826 to 1838, the Mansure Treasury received revenue from Bektaşi evkaf and all evkaf under the Evkaf-ı Hümayûn Nezareti. After the declaration of the Tanzimat in 1839, the Maliye Hazinesi or State Treasury received evkaf revenue, which was then handed over to the Imperial Evkaf Treasury. A memorandum of 1262/1846 concerns the direct and complete delivery from the Maliye Hazinesi to the Evkaf Treasury of the prices for mukataa of arable fields and villages which had been taken over by the Evkaf-ı Hümayûn Nezareti. It was stated that the amount received at auction for iltizams was to be paid to the Evkaf

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[20] *İrade Meclis-i vâlâ* No. 21270, 23 M 1279/1862. Müdahale olunmayan guzat-ı kirâm evkafının âşâr varidatının mütevellileri taraflarından idaresine dair.

[21] *Cevdet Evkaf* No. 32250, R 1256/1840. Balikesirde Zağnos Paşa, Ahmed Bey, Sitti Hatun, ve Fatma Sultan evkafından olan arâzî mahsulü, tanzimat-ı hayriye icabı Evkaf Nezaretine ilhakan mahallinde muhassıl marifetile taşir ve idare edilmekle Maliyeden ilzam bedelinin vakıf mütevellisi Mehmed Tayfur Bey tarafından alındığına dair.

Treasury by the Maliye Hazinesi without the occurrence of any breach of trust or wrongdoing.[22]

An official note of 1259/1843 gives a specific instance of this procedure. The revenue of Sultan Mahmud evkafı in the cities of Filibe and Tatarpazarı and in the surrounding villages was to be obtained by the muhassıls of the districts, and after its collection, the revenue, amounting to 127,000 guruş, was to be sent to the Maliye Hazinesi, and from there it was to be turned over to the Evkaf Treasury. The total sum was obtained from various vakıf fees and tithes, such as the fees for gedikât (trade licenses), mahlûlât muaccelâtı (downpayments on the sale of vacant evkaf property), and âşâr and icarât (the tithes and rents of vakıf roofed property).[23]

There is evidence that in the latter years of Mahmud II's reign and during the first decade of the Tanzimat the Imperial Evkaf Ministry was not independent of the State Treasury, but relied on the Maliye Hazinesi for aid in the payment of its staff, and in the outlay for evkaf expenditures, as well as for the collection of its revenues in the capital and in the provinces. During the time the Evkaf Ministry was under the direction of the Zarbhane Nezareti, the Ministry for the Imperial Mint, the Evkaf-ı Hümayûn Nezareti received donatives from this ministry, primarily from 1813 to 1839. In fine, the Imperial Mint had supplied the income for the salaries of Evkaf Treasury officials during these years. But with the separation of the two ministries in 1839, this aid came to an end, with the understanding that these officials would be receiving their salaries from other sources:

> Whereas the amount of 67,000 guruş out of yearly sum of 151,000 guruş has been assigned as salary to the Evkaf-ı Hümayûn Hazinesi officials from the profits taken by the agents of the imperial mines under the name of iane or donation, owing to the fact that the emanet mentioned is administered by the Zarbhane-i Âmire, and subsequently owing to the separation of the Evkaf-ı Hümayûn Nezareti from the Zarbhane Nezareti, on the subject that it would not be suitable to pay salary from the revenue of the Zarbhane-i Âmire to Evkaf Treasury officials, and arriving at a mutual understanding that the said salaries would come from other revenue of the

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[22] *Cevdet Evkaf* No. 22859, C 1262/1846. Mülhak vakıfları kura ve mezarı mukataası bedelinin doğrudan doğruya Maliye hazinesinden Evkaf hazinesine ve mezkûr hazinesinden de usûlüne tevfiken ve ber güna gadir vukubulmaksızın eshabına itası hakkında Meclis-i vâlây-ı ahkâm-ı adliye ve Meclis-i âli-i umumide müzakere ve tasvib edilmekle iktizasının icrası hakkında Evkaf Nâzırına.

[23] *Cevdet Evkaf* No. 19442, RA 1259/1843. Filibe ve Tatapazarı ve karyelerinde Sultan Mahmud evkafının gedikat ve mahlulât ve icarat ve sairesi olarak tahsil olunup Maliye hazinesi irsal olunan bir yük yirmi yedi bin kusur guruş Evkaf hazinesine teslim edilmek üzere mufredatının irsalı.

Evkaf-ı Hümayûn Ministry, the former record is cancelled, and the said sum will remain with the Zarbhane-i Âmire.[24]

In 1263/1846 a donation was given by the Maliye Hazinesi to the Haremeyn and Evkaf-ı Hümayûn treasuries amounting to 5,000 kese, or 2,500,000 guruş; half this sum was to be paid at once, while the remainder was to be paid on a monthly basis.[25] Several years later, in 1266/1850 the Maliye Hazinesi agreed to pay the Imperial Evkaf Treasury a large sum that was to be expended for the repair of Aya Sofya-ı kebir and its related institutions. The amount for the repair of Aya Sofya mosque, its mausoleum (türbe-i şerîf), clockroom (muvakkithane), medrese, and other attachments to the mosque complex amounted to 11650 kese or 5,825,000 guruş, to be paid to the Evkaf Treasury in monthly installments.[26]

These examples are indicative of the fact that, from time to time, the Evkaf Ministry was incapable of providing payments for its salaried staff, and occasionally lacked sufficient funds for the needed repair of major religious edifices. The reasons for this chronic shortage of income which was to plague the Evkaf Ministry throughout its history are varied; but the most important one may have been that the Evkaf Ministry's revenue was never entirely under its own control, but in the hands of others. After provincial evkaf revenue had been collected, it went first to the Mansure Treasury during Mahmud II's reign, and then to the Maliye Treasury after 1839; these treasuries then handed over the amount collected to the Evkaf Treasury. But, as noted, there had been repeated interference on the part of the Mansure and Maliye treasuries, which did not always hand over the revenue of certain evkaf to the Evkaf-ı Hümayûn Hazinesi.

Part of the confusion was due to the fact that the Evkaf-ı Hümayûn Nezareti did not employ its own tax collectors, but used those of the government; the muhassıls who were mültezim tax farmers acted as agents of the state treasury, and not those of the Evkaf Ministry. The mültezims collected revenue in districts from lands and villages that were mixed (mahlût), where part of the tithes belonged to the government, while the rest pertained to a vakıf. The tax agents failed to make the necessary distinction, but simply collected the entire revenue of a district,

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[24] *İrade Dahiliye* No. 99, 17 B 1255/1839. Zarbhane canibinden Evkaf-ı Hümayûn hazinesi memurlarına bilmünasebe verilmekde olan maaşın tesviyesi icabiyle Zarbhanede bazı ketebeye maaş tahsisine dair.

[25] *İrade Dahiliye* No. 7799, 10 B 1263/1846. Haremeyn ve Evkaf hazinelerine yardım olmak Maliye hazinesinden tahsis olunan mebalığa dair.

[26] *Cevdet Evkaf* No. 24818, ZA 1266/1850. Büyük Ayasofya camii ve teferruatının tamiri içün sarfolunan sekiz yüz bin guruşun Maliye hazinesinden Evkaf hazinesine itası hakkında.

lumping evkaf and state tithes together. Thus, in 1278/1861, a mültezim included the sheep of villages belonging to the evkaf of the Mevlevî order of dervishes in Konya with other sheep in the district, and obtained the tax on the total number. A petition by the dervishes the following year stated that the Mevlevî order had failed to receive its rightful tithes on the sheep from the mültezim, which amounted to 50,000 guruş annually.[27] Tax collection by government officials was part of the new order introduced by the Tanzimat, which put an end to independent revenue gathering by the mütevellis of their evkaf. As evinced by the example of the Mevlevîs, it was not necessarily a change for the better.

If the mültezim had failed to make the distinction, so too had the state treasury which had received the tithe amount for the district in advance by auction. Mütevellis of evkaf in the provinces had to contend with more blatant actions on the part of the government, however. With the beginning of the Tanzimat, evkaf property in the provinces which had hitherto been immune from taxation was assessed by cadastral survey and taxed, and centuries-old immunities were done away with overnight.

Mütevellis in the provinces protested against this new order, claiming that they held tax exemption patents from the state for their lands from the time of the first sultans. The government reply was that these patents (berat-ı âli) were henceforth invalid. In 1269/1853 the şeyh of Samit Balı türbe located in the village of Hamidiye in Ayaş kaza in the region of Ankara filed a petition claiming that tax was not to be taken from land belonging to the türbe because of an emr-i âli, or imperial writ he had in his possession. The reply of the government was that while patents of this kind had been given by past sultans, they were restricted for the support of poor dervishes; but subsequently şeyhs, zâviyedars, and mütevellis began taking this and that land strictly for their own naked profit, and so it was not permitted for them to be excused from taxes on land which they had in their possession by this type of title deed (tapu). The recommendation was that a command should be written to the vali of Ankara province stating that the emr-i âli in the said şeyh's possession should be cancelled.[28]

This policy of land registration and taxation had been in effect from the beginning of the Tanzimat. In 1256/1840, a petition was made by the

[27] *İrade Meclis-i mahsus* No. 1087, 10 M 1279/1862. Mevlânâ Celâleddin-i Rumî hazretlerinin evkaf-ı şerîfelerine merbut kura ağnamı rüsûmuna dair.

[28] *Cevdet Evkaf* No. 15556, B 1269/1853. Ankarada Ayaş kazasında Hamidiye karyesinde Samit Bali türbesine meşrut arâzîden elindeki emir mucibince vergi alınmaması şeyhi tarafından iddia olunmakla neticede bu yoldaki emirler ancak geçen sultanlar tarafından fukarayı dervişânın etamı içün tahsis olunan arâzîye maksur olub tekye ve zâviye şeyhlerinin şundan bundan alıp ba tapu tasarruf ettikleri arâzînin tekâliften muafiyeti caiz olamıyacağı hakkında.

zâviyedars Seyyid Halil, Seyyid İbrahim, Tahir Efendi, and Hasan Efendi to the effect that while there had been no request for taxes until the present from the lands located in the village of Kuyucılar in Viranşehir belonging to the zâviye of Ak Şemseddin, since a transgression against the vakıf was committed by distributing taxes on the people of the village, the zâviyedars requested that this taxation be prohibited by an imperial order. The official response was that upon investigation it was found that the land of the village was in no way registered to the zâviyedarlık, and that no local or vakfiyye records existed which would verify the contention of the dervishes. According to the requirements of the Tanzimat-ı hayriye, every definite emlâk and arâzî in the empire was to be surveyed and registered, and taxes were to be paid on them, and this being the case, the petition was cancelled.[29]

Similarly, several years later in 1259/1843, a request was made that taxes not be taken from a tekye in the district of Söndeki Fakih in Edirne, nor from the dervishes residing therein. The tekye had been restored by Şeyh Davud Efendi of the Nakşibendiye order, and drew an income from the arable field of Hacı Muhieddin zâviyesi. Since the beginning of the Tanzimat-ı hayriye, a yearly tax of 800 guruş had been placed on the field, and an additional tax of 120 guruş on the tekye was asked from the şeyh and dervishes. The government excused the dervishes from the tax of 120 guruş since they did not appear to possess one akça from anywhere as a means of sustaining themselves, and had nothing aside from the cells in which they resided. Although tax on the tekye was cancelled, the 800 guruş which had been assigned to the field of the tekye was maintained.[30]

In the previous year, Seyyid Hâfız Musa Efendi, the şeyh of Ahi Evren tekyesi in the kasaba of Kırşehir, presented a petition to the government complaining that the mukataa of Çanakçı and Kurt tepe belonging to the tekye had been tithed by the Kırşehir muhassıl. But paying the entire amount of the tithe — some 890 guruş — had reduced the şeyh and the dervishes of the tekye to a destitute and grieved condition. An imperial largess (müsaade-i seniye) for mercy's sake was requested from out of the tithe of the mukataa. The response of the government was that this sort of request was not in accord with regulation, and any amount from the tithe was not to be taken. But since the şeyh was aged and stricken in

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[29] *Cevdet Evkaf* No. 15387, L 1256/1840. Viranşehirde Akşemseddin vakfı zâviyedarlarına âit arâzîden tekâlif talip olunmaması hakkındaki iddia tetkik olunarak tanzimat-ı hayriye icabına her kesin emlâk ve arâzîsi tahrir ve tekâlifi eda olunmak irade-i seniye iktizasından bulunmakla arzuhalın iptalı hakkında.

[30] *Cevdet Evkaf* No. 16123, 9 S 1259/1843. Edirnede Söndeki Fakih mahallesinde Nakşî Davud Efendinin ehya eylediği tekyeden ve bu tekyede sakin dervişlerden vergi istenilmesine dair.

years, and owing to the fact that he was a member of a religious order that was worthy of imperial compassion and favor, a decree would be issued to comply with his request that provisions be given to the mentioned Özbekiye tekye in Kırşehir.[31]

One part of the new order established by the Tanzimat was to centralize and update financial records in the provinces. Anyone who held a patent or title deed to evkaf property, or imperial writ confirming his right to draw rations from state revenue, had to have the document in his possession validated; and this was done when it was proven that a corresponding document existed in the central records of a province, or in the main financial records kept in İstanbul. If no corresponding record existed, then the document the individual held was cancelled.

According to a memorandum of 1260/1844, a şeyh of the Kadirî order was denied his customary allowance of wheat and barley because the order he had in hand did not conform to the provincial register. According to his petition, Şeyh Abdulaziz Efendi, the şeyh of a hankâh he had constructed in the kaza of Erbil, owing to his poor condition, was accustomed to receiving from the granary of the kaza a yearly allotment of 10 bowls of wheat and 5 bowls of barley. The buyrultu was given by the acting vali of Damascus, Âli Paşa, when he was vali of Bağdad, according to the account the şeyh gave in his petition. He stated that he encountered opposition regarding payment of the rations with the introduction of Tanzimat regulations in the province, and was put off with various excuses. He had petitioned the government with a view to receiving the same amount of wheat and barley as in the past. In reply, the government repeated its position that upon the request for the payment of rations which were given by the valis, mütesellims, and voyvodes, whenever valid title deeds were not presented, then permission was not to be given for payments from the revenue of the province. Further, according to the financial records which had arrived from the said vali Âli Paşa, it had in no way been explicity written whether the said amount of wheat and barley had been assigned or not at the time of Âli Paşa's governorship of Bağdad. In a financial register which arrived in the capital from the Bağdad defterdarı, it was clear from a marginal note that only two and a half bowls of wheat had been recorded. Since the buyrultu which the şeyh presented did not conform to the records of the province, the buyrultu in his possession was cancelled.[32]

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[31] *İrade Dahiliye* No. 3145, 19 C 1258/1842. Kudus-ı şerîfde Özbekiye zâviyesine taamiye tahsisi istizanına dair.

[32] *Cevdet Evkaf* No. 29093, 21 Ş 1260/1844. Erbil kazasından Kadirî şeyhinin buğday ve arpa âidatı olması içün yedindeki buyrultular deftere uymadığından icabına dair.

The new procedure introduced with the advent of the Tanzimat regarding registration applied to evkaf property as well as to individuals. A tahrirât, or official letter, was sent to the Ankara defterdarı in 1257/1841 which described the procedure set down by the Tanzimat concerning the taxing of evkaf revenue. After the revenue of Paşacık vakfı in the village of Akçakilise in the kaza of Yabanabat in Ankara had been tithed by the muhassıl, the procedure to be followed was that every vakıf financial account in the district was to be inspected, and after the tithe amount had been taken out, the surplus remainder was then to be divided among those for whom the vakıf was stipulated. The revenue had been tithed the previous year by the mütevelli, one Mustafa Efendi by name, but dating from the year 1256/1840, according to the procedure established by the Tanzimat-ı hayriye, the evkaf attached to the Evkaf-ı Hümayûn Nezareti was to be tithed by means of muhassıls. Since the revenue for the year 1256/1840 had not been obtained by the mütevelli Mustafa Efendi, he requested by petition that it be paid to him. The answer of the government was that while the tevliyet was in the possession of Mustafa Efendi, it had been in no way indicated or recorded that the vakıf was included in the register for the province. In addition, according to the pattern set down by imperial decree which was to be followed for all evkaf located in the provinces, after the revenue had been tithed by the muhassıls, only that part of the surplus revenue which was stipulated for the mütevelli and others in the vakfiyye foundation charter would be distributed; the rest was to go to the Evkaf Treasury.[33]

With the introduction of Tanzimat legislation, many individuals were deprived of their former income outright, as in the following example. According to the tenor of a report dated 23 Cemaziyelâhir 1257/1841 which was presented to the muhassıl of Karası, Şeyh Lutfullah and Hüsameddin Efendi had requested by petition the revenue of 1200 guruş for the years 1256/1840 and 1257/1841, since they had in their possession a berat-ı şerîf title deed for the zâviyes of Şerîfe Umm Gülşam in the kaza of Balıkesir. But the response from the capital was that it was not at all indicated in the register of the province that the zâviyes were in the possession of the said individuals, — or that they were the rightful mütevellis. And the formula for dealing with provincial evkaf was repeated: according to a five article draft law sent to the provinces regarding the procedure established for all evkaf-ı şerîfe, the accounts were to

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[33] *Cevdet Evkaf* No. 18872, C 1257/1841. Ankarada Yanabat kazasında Akçakilise karyesinde Paşacık vakfı hasılâtı muhassılık tarafından taşir olunmuş ve her vakfın muhasebesi mahallinde görülerek masarıfı çıktıktan sonra fazlasının meşrutulehleri arasında taksimi usûlü icabından bulunmuş olduğundan mezkûr vakıf hakkında da bu yolda muamele yapılması hakkında.

be inspected for every vakıf in the district, and after the customary and extraordinary tithes had been taken out, the remainder (fazla-ı vakıf) was to be divided among those designated according to the conditions set down by the vâkıf founder.[34]

A petition by Şeyh Yahşî Dede Efendi of the Mevlevîhane located in Sivas requested the re-assignment of 150 guruş yearly. That amount had been assigned with a buyrultu by the valis of the province, but with the introduction of Tanzimat legislation into the province, the yearly allotment had been cut off according to regulation. The official response by the government to the petition was that payment of the sum by the vali would be mugayir-i nizam, strictly contrary to order. But since the amount requested was for provisions for the dervishes and for the poor, while a largess would not be suitable at the time, nevertheless at the first moment a vacancy occurred either in İstanbul or in the province, the yearly amount of 150 guruş would be assigned to the said dervish convent. By vacancy is meant a salary which has become vacant and is escheated to the Crown upon the death of the holder who has died without heirs. Only when such vacancies occurred would income be assigned, and the condition was repeated that the free assignment of salary by provincial governors and officials was strictly forbidden.[35]

In its attempt to get its hands on the considerable evkaf revenue that existed in all the provinces of the empire, the Ottoman government disenfranchised many mütevellis and members of religious orders of their right to evkaf income. They were required to petition the government frequently for a basic living allowance after their evkaf property had been tithed and taken over by state officials. With the establishment of Tanzimat regulations regarding land tenure in the provinces, the takeover of the business of tax collection by the muhassıls, and the transfer of administration from the mütevellis to the Imperial Evkaf Ministry, the way was paved for the centralization of all evkaf throughout the empire and the direct control by the state of its revenue. Regrettably, the new arrangement was not to the benefit of religious foundations.

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[34] *Cevdet Evkaf* No. 18898, 23 C 1257/1841. Varidatları muhassıl taraflarından alınan Balikesirde Şeyh Lûtfullah ve Hüsameddin Efendiler zâviyeler varidatlarının mütevellilerine verilmesine dair. Karası muhassıl Hakkı Beye.

[35] *İrade Meclis-i vâlâ* No. 15264, 4 B 1272/1856. Sivas mevlevîhanesine mahlûl vukuunda taamiye tahsisi istizanına dair.

CHAPTER EIGHT

THE DECLINE OF RELIGIOUS FOUNDATIONS UNDER THE IMPERIAL EVKAF MINISTRY

The control of evkaf revenue exercised by the Evkaf Ministry and the decline of religious foundations that resulted from this control did not escape the attention of a number of European observers of the Ottoman empire. In general, they have commented unfavorably on the administration of religious endowments under the Evkaf-ı Hümayûn Nezareti since its foundation by Mahmud II. One of the most critical indictments against the government's takeover of vakıf income has come from the pen of the English writer Charles MacFarlane. His direct and sweeping accusation against the Ottoman government's manner of dealing with evkaf is worth quoting here:

> I can speak confidently to the fact that a considerable number of these works (i.e., mosques, bridges, fountains, inns, tekkes, and the like) which are destroyed and useless now, were in a tolerable good state of repair no farther back than the year 1820. But the reformers, who are uprooting religion, and a respect for it in every direction, have utterly destroyed the security which the mosque, and the mosque alone, could give to any landed property; they have destroyed the independence of the Turkish Church — if I may so call it; they have laid their greedy hands on nearly all the vakoufs of the empire, and are undertaking to provide out of the common state treasury, for the subsistance of the Ulema, Mollas and college or medresseh students, to keep up the mosques and the medressehs, to repair the bridges, khans, etc., and to do, governmentally, that which the administrators of the vakouf had done or ought to have done. Hence, with very few exceptions, we see the heads of the mosques and the medressehs in abject poverty, the rabble of (religious) students in rags, the most beautiful of the temples and the minarets shamefully neglected and hurrying into decay, the bridges, fountains, and khans in the state I describe. It is notorious that since the vakoufs have been administered by the government nothing has been done to maintain the works of public utility ....[1]

MacFarlane's contention that vakıf institutions and their intendants were not provided for by the government is substantiated by other European observers, especially by the British consuls on the Greek islands in the Aegean. The general report from the consul on the island of Rhodes for the period 1858-60 presents a picture of appalling conditions the Muslim population laboured under on that island:

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[1] Charles MacFarlane, *Turkey and Its Destiny*, (London 1850), 396.

> Education morally and physically is set aside. The people live in ignorance and superstition. Notwithstanding ... a soupkitchen at Rhodes from which soup is distributed thrice a week to the indigent musulmans, no other pious or benevolent institutions exist on the island. There is no hospital, no infirmary, no asylum; the lame, the blind, the mad, and the old are all left to their fate.[2]

For the islands of Chios and Cyprus the situation was similar: "For Chios and Cyprus charitable institutions are few; as for education, the people are mainly ignorant, especially the clergy."[3] The report on the island of Mytilene reflects the same situation: "But there is only one medrese on Mytilene, i.e. in Mytilene the town and only 5 or 6 students, most of whom leave after memorizing a few verses of the Coran to become imams. The normal course of study is 15 years. Most of them drop out. Compared to the Greeks, there are few Muslims in the island."[4]

With respect to religious institutions on Rhodes, some aid was provided by the government. Notably, for the repair of the ten mosques on the island, a yearly assignment of 60,000 guruş was allocated from 1850 to 1858; and for the imaret a yearly allotment of 100,000 guruş was sent for the same period. Some twenty mektebs (primary schools) existed on the island directed by the imâms, but education was nevertheless limited, the consul reporting that it would be difficult to find forty literate individuals in a thousand.[5]

On the island of Mytilene the Muslim religious lived in impoverished circumstances, and clearly lacked state support:

> The Turks on the island possess 5 small tekes for Mevlevi dervishes. These establishments owing to bad administration of revenues bequeathed for their upkeep, are falling into ruin and are uninhabited. A single teke at Mytilene is in the process of being repaired by means of a subscription. It is occupied by 5 or 6 dervishes whose office consists in reciting in public once a week prayers .... The muslim clergy is not numerous: it consists of 30 imams whose office consists in reciting prayers for the five canonical hours of the day, and in teaching young children how to spell. Little educated, the majority of the imams hardly know how to recite, without comprehending them, the usual verses in the Coran. Not being remunerated by the State, they live miserably. Their benefice is limited to

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[2] F.O. 198/13, General Reports from the Consuls, 1858-60, report from the island of Rhodes.

[3] F.O. 198/13, General Reports from the Consuls, 1858-60, report from the islands of Chios and Cyprus.

[4] F.O. 198/13, General Reports from the Consuls, 1858-60, report from the island of Mytilene.

[5] F.O. 198/13, General Reports from the Consuls, 1858-60, report from the island of Rhodes.

> a small part of the revenues of the mosque which they serve and in some good hands of their flocks.[6]

The report of the consul was for the period 1858-60. An evkaf müdürü had been appointed to the island of Mytilene as early as 1848; it is reported that in 1849 Mehmed Zihni Efendi replaced İzzet Efendi who had resigned as evkaf müdürü.[7] If the consul's report is an accurate reflection of conditions on the island ten years later, it says little for the efforts of the Evkaf Ministry and its representatives on Mytilene.

In his travels through the Ottoman dominions prior to 1840, Bishop Southgate described the same ruined condition of religious edifices, and attributed their decline, like MacFarlane, to the Ottoman government's takeover of their vakıf revenues:

> The great convent of dervishes founded by Abdul-Kadir, though still occupied, has been partly destroyed by an inundation, and probably will never be repaired .... The present number of mosques is about fifty, and many of these are in so ruinous a condition that prayer is no longer offered in them. The endowments of such have been seized upon by the government and sacrilegiously appropriated to its own use, while of others it has made itself the administrator, thus having control of their revenues, and disbursing for their support only so much as it pleases. In some cases it has curtailed some of their endowed offices, and retained the salaries for its own purposes. Such acts, practiced by the civil ruler, and endured by the Mussulmans, only serve to show to what degradation the religion has fallen.[8]

These indictments are striking; but the isolated reports of British consuls and English travelers are not conclusive evidence of a general pattern of mismanagement by the Evkaf Ministry — no matter how many instances may be cited — for they are not descriptions of the operation of that ministry.

But the charge of misappropriation of funds and general neglect of evkaf institutions is substantiated by the account of a former Evkaf Ministry nâzır, Seyyid Mustafa Nuri Paşa, who has confirmed the contention of these European observers with the following account:

> With the coming of the Tanzimat, all selâtin and other arâzî-i mevkufe were taken over and taxed by the finance treasury, and when it was accounted, the tax revenue of the said arâzî-i mevkufe amounted to 44,000 kese (or some 22 million guruş). This was divided into monthly payments

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[6] F.O. 198/13, General Reports from the Consuls, 1858-60, report from the island of Mytilene.

[7] See *İrade Dahiliye* No. 10385, 17 S 1265/1845. Midilli ceziresi evkaf müdürlüğüne Mehmed Zihni Efendinin tayinine dair.

[8] Bishop Southgate, *Narrative of a tour through Armenia, Kurdistan, Persia, and Mesopotamia*, I (New York, 1840), cited in C. MacFarlane, *Turkey and Its Destiny* I, 396-7.

and was paid to the Evkaf Treasury by the Maliye Hazinesi. In later times, Fuad Paşa gave the name of iâne or donation to the money that the Maliye Hazinesi gave to the Evkaf Treasury in a fixed amount, and whenever a deficit appeared in the general balance, by decreasing the amount each time, he reduced it to lower than a fourth of the original amount. And as for camis and other imperial evkaf institutions, since the majority of their income was from arâzî-i mevkufe, and, as stated, since there were entire reductions from this, by reason of their expenses remaining unmet, of necessity, they were forced to be administered by the revenue of this or that vakıf, and consequently all mankind has witnessed the destruction of the pious works that are religious and charitable foundations.[9]

The manner in which the government treated arâzî-i mevkufe belonging to the chief dervish orders is illustrative of the way landed property pertaining to religious foundations was taken over. By an order issued on 19 S 1258/1842 it was declared that the lands belonging to the tekyes and zâviyes of the illustrious saints located within the eyâlet of Hüdavendigâr were to be tithed by the government.[10] Beginning in 1256/1840, with the introduction of Tanzimat reforms throughout the Ottoman dominions, it had been decided that vakıf lands and villages would be taxed by the Ministry of Finance. The mütevellis of the vakıfs protested at once to this kind of interference in the financial affairs of the vakıf, and complained that the muhassıls, the tax collectors, were paying them in cash instead of in kind, and that a number of injustices had been committed because of this.[11] In addition, the tax farmers were requesting more than the normally prescribed tax from the vakıf. The official reply given to these complaints was that while villages and lands that belonged entirely to vakıfs were to be taxed and administered by them, this was not the case for evkaf lands that were mixed and held in common with the shares of large fiefs and leasehold mukataa from the Crown. These vakıf villages and lands that were held in common were to be tithed by tax farmers, and after the requisite taxes from the government had been taken, then the remainder of the revenue was to be paid to the vakıf in kind.[12]

The evkaf belonging to the Mevlevî order of dervishes and the other chief tarikâts had been declared as müstesna since the beginning of the Tanzimat in 1839; that is, they were exempt from any governmental control, and were independently administered and tithed by their own

[9] Seyyid Mustafa Nuri Paşa, *Netayic ül-vukuât* IV (İstanbul 1307/1909), 101.

[10] *İrade Meclis-i vâlâ* No. 632, 19 S 1258/1852. Hüdavendigâr eyâleti dahilinde kâin tekâya ve zevâyaya meşrut olan arâzîye dair. See as well *İrade Meclis-i vâlâ* No. 804, 28 B 1258/1842. Dahil-i tanzimat olan mahallerde kâin tekâya ve zevâyaya mahsus olan kura ve mezarın sûret-i idaresine dair; and *Cevdet Evkaf* No. 27168, C 1256/1840. Bütün tekye ve zâviyelerin taamiyelerine meşrut kura ve mezarı ve arâzînin tanzimat usûlünce mahallı idaresi tarafından teşrii hakkında.

[11] *İrade Meclis-i vâlâ* No. 632; *İrade Meclis-i vâlâ* No. 804.

[12] *İrade Meclis-i vâlâ* No. 632.

agents.[13] However, the government made the distinction between independent landed endowments and those which were mixed and held in common. As the vast majority of landed property belonging to the dervish orders was mahlût, or mixed with other property, these lands were not to be tithed and administered independently.[14] It was asserted that most of the arâzî-i mevkufe in the empire was evkaf-ı şerîfe land held in common, and therefore liable to governmental control of its revenue.[15] Much of the landed property of the Mevlevî tarikât and others was not, then, müstesna, and government policy had rendered this term virtually devoid of substance and meaning. The text of the decree is as follows:

> In the regions within the Tanzimat those lands which are tied to dersiye or teaching fees, and those which have been assigned in the times of the former sultans as food for the dervishes and the poor from tekyes and zâviyes of the illustrious saints, may the dust of their graves be fragrant, and may God sanctify their mysteries, whereas they represent lands, fields, and villages which are recorded in the defter-i hakanî cadastral survey, henceforth they are not to be administered independently; and those other evkaf attachments which are mixed and held in common with the shares of large fiefs and leasehold mukataa lands from the Crown being administered by local officials, after deducting the tithe fee from the revenue, whatever that fee may amount to, the balance of the revenue is to be paid in kind, and in consequence of this fee, nothing more than this is to be requested or demanded. And in addition, as there are independent villages of the vast evkaf of Mevlânâ, may his grave be sanctified, and of other illustrious saints, which are in the environs of İstanbul, as to their not being transferred and possessed by someone else, owing to the fact that this has been decided upon previously by the meclis-i vâlâ, and whereas it is in accordance with an exalted imperial decree which has been issued to this effect ... since independent lands and villages belonging to the tekyes and zâviyes of hazret-i Mevlânâ and other illustrious saints have been exempt since the beginning of the Tanzimat in 1839, they are to be controlled and administered by the postnişin şeyh of order, the mütevellis, and the descendants of the founder, and dating from this year of 1258/1842, these kinds of evkaf are not to be interfered with by local administrators. But according to the requirements of an amended and improved procedure, the vast majority of the local tithes located within the province of Konya have been auctioned and have been awarded to contractors village by village up to the present time, and owing to the fact that the majority of evkaf-ı şerîfe attachments are mixed and held in common with large fiefs and Crown leaseholds, it is necessary that the revenue from the shares of evkaf-ı şerîfe lands held in common be paid in kind ....[16]

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[13] *İrade Meclis-i vâlâ* No. 632.
[14] *İrade Meclis-i vâlâ* No. 632.
[15] *İrade Meclis-i vâlâ* No. 632.
[16] *İrade Meclis-i vâlâ* No. 632.

The taxfarmers were not contented with dividing each village and separating the revenue that belonged to the vakıf, and voiced their opposition in stating that they would not be contented with this procedure; such a course of action had led to a good deal of discussion between the tax farmers and the owners of evkaf, and involved a number of complications and entanglements, so that such an arrangement resulted in the breakdown of awarding taxfarming contracts from the start.[17] At the time of adjudicating taxfarm contracts, therefore, the shares of vakıf lands and villages that were mixed and held in common were not separated, but were awarded together, as their separation would have caused the cancellation of contracts and would have entailed a number of other difficulties.[18].

Other sources of revenue belonging to the dervish orders were taken over as well. By an order of 10 Muharrem 1280, all the saltworks pertaining to the zâviyes and hankâhs of the aizze-i kirâm, the illustrious saints, were taken over by the state and tied to a fixed price. A petition had been presented by the descendants of Mevlânâ Şemseddin that the saltworks under their supervision continue to be administered by them. An official reply stated the following:

> It is clear from the tenor of a report which has been submitted along with an enclosure of the Meclis-i vâlâ that a request has come from the district relating to the saltworks which are connected to the convent and descendants of Mevlânâ Şemseddin located within the province of Sivas. The petition requests that the saltworks be administered by the descendants mentioned, and upon this being communicated and permission being requested for this from the treasury, whereas the matter has been made known to the rüsumât-ı emanet-i celîlesi, the customs administration, and to the district, in the communiqué issued by the said emanet, these kinds of saltworks which are held in mortmain and stipulated for the zâviyes and hankâhs of the aizze-i kirâm are taken over by the state and tied to a fixed price according to the requirements of regulations which have been established. And as the sovereign has assented to this opinion, it is to be acted upon as required; and according to the procedure that has been adopted, since it would not be suitable for an exception to be made in the aforementioned saltworks, in consideration of the fact that the saltworks are tied to a fixed price according to regulation, and since the aforementioned descendants will not be deprived of their special rights, according to the communiqué of the said emanet, however much the yearly income of the saltworks may amount to, it is to be paid at a fixed price to the aforementioned descendants, and it has been communicated to the said ministry that the saltworks be administered by the state; and whereas the matter of information being given to the aforementioned emanet has been discussed, con-

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[17] *İrade Meclis-i vâlâ* No. 632.
[18] *İrade Meclis-i vâlâ* No. 632.

tingent upon an imperial order being issued in whatever manner on this subject, with the declaration that action will be taken according to it, the memorandum of your humble servant has been set to writing, Efendim.[19]

In another order it is clearly stated that the saltworks should not be administered as formerly by the descendants of the vâkıf, Şemseddin Sivasî, as a decision of the meclis-i muhasebe, or council for financial accounts, decided that the tevliyet in their charge should be abolished. The reason why this could not be done is unambiguously stated: "... it is a clear matter that allowing evkaf administration to return to its former condition would result in the spreading of a fearful situation, and would result in a complete loss to the treasury ...."[20]

The reason for the takeover of the saltworks belonging to the dervish orders, aside from the ostensible benefit of controlling a lucrative source of revenue, was the intention of the government to monopolize the production and sale of salt. The orders were not only deprived of the administration of saltworks which had been made vakıf, in addition the mines and wells connected to and held in mortmain by the zâviyes and hankâhs of the illustrious saints were to be administered by the state besides.[21] Returning the abovementioned saltworks to the original administrators was unthinkable because making an exception in this case would not only cause great harm to the treasury, but "... as it is desired to protect the monopoly system from any damage or harm, this should be considered important and supported by all means ...."[22]

With the government's takeover and control of various sources of vakıf revenue, assurances were invariably given that the full amount of the revenue accruing to the vakıf would be paid after taxes were deducted. These assurances and guarantees did not stand the test of time, however. According to a report of Zilkâde 1267/1851, Muşlî El-Şeyh Abdullah Efendi had been postnişin şeyh of a zâviye which drew a yearly revenue of 25,000 guruş from thirteen villages connected with the zâviye. But since the revenue of the villages had been taken over by the state treasury ten years previously in 1257/1841, the zâviye had become closed, and the şeyh himself was afflicted with poverty and suffering. He had become more than 15,000 guruş in debt, and during the months he was required to reside in the capital waiting for an answer to his petition, he had acquired more debts. To his mind, and according to his situation, his re-

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[19] *İrade Meclis-i vâlâ* No. 22221, 10 RA 1280/1863. Sivas'da Mevlânâ Şemseddin hazretlerinin evlâd-ı hankâhına meşrut esmanı memlâhasının mîrîden zabtiyle bedelinin verilmesine dair.

[20] *İrade Meclis-i vâlâ* No. 22221.

[21] *İrade Meclis-i vâlâ* No. 22221.

[22] *İrade Meclis-i vâlâ* No. 22221.

quest was simple: that the villages that had been taken by mîrî be restored to him, or, failing that, that he be granted the amount of 25,000 guruş annually, which was their value. The response of the government was that, owing to the fact that he appeared worthy of imperial mercy and favour, Şeyh Muşlî Abdullah should be granted an atiyye-i seniyye, or imperial largess, of some 1500 guruş by the Maliye hazinesi in order to pay for travelling expenses for his return home.[23]

It had been requested by the district that an official explanation be given why the government seized the villages belonging to the aforementioned zâviye; the laconic reply which came from the meclis-i vâlâ was that it had been done according to need.[24]

The government seized control of the majority of evkaf landed property by declaring it was mixed with shares of other property that were leased and subject to taxation. It took over mines, wells, and saltworks held in mortmain by declaring these resources a state monopoly. Another method of acquiring independent evkaf employed by the state was to take over the vakıfs of mütevellis that had died, that is, with the extinction of the family line, and deprive those who were living of their administration if it were determined that they were badly administering the foundation in their charge.[25] Further, vakıfs whose religious and charitable institutions were either in dire need of repair or simply in a ruined condition were also taken over by the government. Such was the case with a number of evkaf-ı şerîfe in Damascus; according to the tenor of a report of 7 Zilkâde 1281/1864, evkaf with the name of Cevheriye and Adiliye-i sugra and Mülk-i tahir, along with a known number of other evkaf, since their revenue had been consumed for this or that object, the objects they endowed were in utter and complete ruin.[26] Since the vast majority of the mütevellis of these evkaf had either died, or, if living, as they did not attend to vakıf affairs, they were responsible for the revenue of these vakıfs becoming lost or destroyed; the government was justified then in taking control of them. The mütevellis, if they held valid berat patents, were given salaries and rations stipulated in them for life, with the understanding that they not interfere in the affairs of the vakıf or the collection of revenue.[27]

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[23] *İrade Meclis-i vâlâ* No. 7338, fî gurre-i Zilkâde 1267/1851. Muşlî Abdullah Efendi zâviyesine merbut olan zabt olunmuş olan karyede istilâm-ı keyfiyetine ve efendiy-i mumialeyhe âtiyye-i seniyye itasına dair.

[24] *İrade Meclis-i vâlâ* No. 7338.

[25] *İrade Meclis-i vâlâ* No. 23711, 7 ZA 1281/1864. Şam-ı şerîfte bazı evkaf-i şerîfelerin hazine-i celîleden zabt olunduğuna dair.

[26] *İrade Meclis-i vâlâ* No. 23711.

[27] *İrade Meclis-i vâlâ* No. 23711.

The reason given for the treasury's taking possession of these endowments in Damascus was, presumably, to rescue them from total ruin:

> "... and according to the manner communicated, since the revenue of the said evkaf has been consumed for this or that reason, the majority of these religious foundations have entered into a condition of ruin, and it is understood that some of them are in need of repair; and whereas all religious foundations in the empire are to be in a continual prosperous and flourishing condition under the protection of the imperial sovereign who favors prosperity, since leaving these evkaf in a ruined state is not at all suitable, and since the origin of those for whom the vakıf revenues were stipulated has entirely been obliterated, and as this is due to the mütevellis merely procuring evkaf revenue for their own consumption, this kind of evkaf being taken over and administered by the treasury will cause the prosperity of these evkaf, and their revenue will not be wasted and destroyed ....[28]

Unfortunately, much of the evidence with respect to the way in which evkaf revenue was administered by the treasury is testimony to the fact that while the sentiments expressed above were lofty, they were utterly without foundation. It was estimated by Mustafa Nuri Paşa that the revenue from all arâzî-i mevkufe taken over and taxed by the Maliye hazinesi amounted to some 22 million guruş annually. An official memorandum of 19 Receb 1259/1843 proves that his estimation was accurate:

> Deposited as security with the seal of the grand vizir, according to the requirements of the equable procedure of the Tanzimat-ı hayriye, in exchange for the mukataa and the revenue of the haremeyn-i muhteremeyn and evkaf-ı hümayûn treasuries, in accordance with an ilmühaber receipt, the maliye hazine-i celîlesi is to pay the two said treasuries every month the sum of 10 yuk 77,399.5 guruş and 25 para (that is, 1,077,399.5 guruş), and it is to be assigned and arranged by an irade-i seniyye, and with the declaration that the said sum is to be paid on account for the month of temmuz in the year 1259, to command belongs unto him to whom all commanding belongs.[29]

If the figure 1,077,399.5 is multiplied by twelve, the result is the sum of 22,928,794.0, almost the exact figure cited by Mustafa Nuri Paşa. As this amount was doled out by the Maliye hazinesi to the Evkaf and Haremeyn treasuries at discretion, and was ultimately reduced to a quarter

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[28] *İrade Meclis-i vâlâ* No. 23711.

[29] *Cevdet Evkaf* No. 3717, 10 B 1259/1843. Tanzimat-ı hayriyenin ilânından sonra müttehaz usûle tevfiken haremeyn evkaf varidât ve mukataâtının maliye hazinesinden zabt edülüp bunlara mukabil her ay on yük kusur kuruşun evkaf hazinesine itası ba irade-i seniye mürettep olması hasebile 1259 senesi temmuzuna mahsuben meblağ-ı mezburun itası hakkında Evkaf Nâzırı Mustafa Kâni mühürünü havi. On the nezaret of Mustafa Kâni Efendi in general, see *Evkaf-ı Hümayûn Tarihçe-i Teşkilâtı*, 75-9.

of the total sum, it is difficult to see the Ottoman government in the rôle of being the saviour of evkaf. Admittedly, the mismanagement and peculation of revenue cited in the Damascus report must have been responsible for the ruin of evkaf property and income; but the abuses committed by individual mütevellis are not to be compared with the fleecing of Islam by the state as described by Mustafa Nuri Paşa.

The acquisition by the Maliye Hazinesi of the revenue of all evkaf landed property as stated by Mustafa Nuri comes as a bit of a surprise when encountered in the pages of *Netayic ül-vukuât*, for it is a flat assertion, made without any introduction or explanation as to how such a takeover occurred. Monumental as this action was, it was not entirely unforeseen or without precedent.

During the latter years of Mahmud II's reign, arâzî-i mevkufe revenue was resorted to as a source of income for the Asâkir-i Mansure-i Muhammediye, the new imperial troops. The manner in which this was done was through tax-farming; certain evkaf attachments belonging to the Evkaf-ı Hümayûn Nezareti were taken over by the Mansure Hazinesi for a year as iltizam. The Mansure Treasury paid the Evkaf Treasury an advanced sum for the right to collect taxes on specific evkaf lands. An order dated 21 Şaban 1251/1835 describes this procedure:

> From the evkaf-ı hümayûn which are administered by nâzırs from the attachments of the vakf-ı şerîf of the late Gâzi Süleyman Paşa, the villages of Sarı Çayır and Papatye which are located in the kaza of yenişehir-i Brusa are to be taken over for an entire year from the beginning of Mart 1251 to the end of Şubat of the year mentioned, and it is to be undertaken by the Mansure hazinesi with a downpayment for the right to collect taxes of two thousand seven hundred guruş. It is to be given in farm to the Mansure hazinesi, and the sum which is the price for the iltizam is to be delivered and paid entirely to the Hazine-i Evkaf-ı Hümayûn on time, and a deed of debt is to be given by the one who has undertaken it; and the mukataa mentioned is to be taken over for an entire year on account for the year mentioned, and the produce and the customary taxes which occur are to be obtained, and there is to be no interference or intervention in this by anyone else, and this zabitnâme commission has been written, sealed, and presented by the nezaret-i evkaf-ı hümayûn.[30]

By the practice of taxfarming revenue from evkaf landed property, the way had been paved for the complete control and possession of this revenue by the Maliye hazinesi. The tax farmers, as agents of the Finance Treasury, procured for the fisc an important source of evkaf revenue in collecting the taxes from villages and fields that were mixed and held in common with leased state property.

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[30] *Cevdet Evkaf* No. 1040, 21 Ş 1251/1835. Gâzi Süleyman Paşa vakfı mulhakâtından Bursa yenişehri kazasında Papatye ve Sarı Çayır karyeleri iltizam bedeline dair.

The taxes on evkaf lands were a major form of vakıf revenue, but there were other significant kinds of income besides. Primarily, there were the fees to be obtained from the purchase and sale of evkaf roofed and landed property when this property fell vacant. Whenever the transfer of property occurred to new owners, the downpayment fee, the muaccel, was required. The need was soon perceived by the government to send officials into the provinces to list and record religious foundation estates, and conduct financial transactions that had previously been carried out by individual mütevellis.

The original plan of the government was to send scribes to the regions where there was a concentration of evkaf property in the provinces. It was initially proposed that these scribes be appointed and sent from İstanbul, and in addition to travelling expenses, that they be assigned a salary of two hundred guruş in every thousand.[31] However, this proposal was rejected on the grounds that paying such a salary and travelling costs from evkaf revenue would eat into existing vakıf income, and would be uncanonical.[32] Another alternative was to appoint officials from the district by the kaimmakams, the head officials of these districts and the provincial directors of finance.[33] Appointed from the local inhabitants, these officials would be either customs officials or local notables; and as their positions were not created, but were already existing, their salaries were met and accounted for by regular sources of revenue; it would not, therefore, be necessary to assign vakıf revenue to cover their expenses. They were given a fee for their services of one para in a guruş or up to one guruş in ten, and this was deemed canonically permissible.[34] The name given to these officials was muaccelât nâzırs or muaccelât müdürleri, derived from their main function, which was to collect the downpayment fee on the transfer of vacant evkaf property.

The initial experiment in appointing local notables and customs officials as muaccelât müdürleri to supervise evkaf affairs was not particularly propitious, for the majority of them were ignorant in the matters of vakıf, and their attempts at administering evkaf only led to confusion and loss of revenue. Difficulties began to occur not long after muaccelât müdürs were commissioned to undertake evkaf affairs in the provinces, starting in Rebiyülâhir of 1257/1841. So much is clear from an order dated 15 ZA 1259/1843:

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[31] *İrade Meclis-i vâlâ* No. 724, 19 B 1258/1842. Taşralarda bulunan evkaf-ı şerîfe mesalihinin sûret-i idaresine dair.

[32] *İrade Meclis-i vâlâ* No. 724.

[33] *İrade Meclis-i vâlâ* No. 724.

[34] *İrade Meclis-i vâlâ* No. 724.

> ... with the conferral into the hands of Seri Bey of the rikâb-ı hümayûn kapıcıbaşıları of the good administration of evkaf-ı şerîfe in the sancaks of Bayezid and Muş and the eyâlets of Çıldır and Kars and the evkaf located in the eyâlets of Erzrum and Van, he has taken with him an imperial order which has been issued on the first of rebiyülâhir in the year 1257/1841 which comprises the conditions for officials. The said official having gone to that region some five to six months previous to this, has now returned, and has been unable to bring to an end the business taking place there, and a number of suspicious occurrences have also gone on. And in comparison to the amount of evkaf revenue in these regions in previous years, revenue has still not arrived adequately or sufficiently according to the size of the districts and the provinces; and since it has appeared that this matter has caused a deficiency in income, for the protection of evkaf-ı şerîfe, the said official post is to be taken from the abovementioned official, and upon the selection of someone who is reliable and well-acquainted with the affairs of evkaf from a similar local inhabitant of another district, upon his being appointed, evkaf affairs are to be administered in accordance with the draft law mentioned, and in order for it to become decidedly clear how much revenue has been obtained pertaining to the evkaf and haremeyn treasuries during the time in office of the said official, and exactly how much income has been obtained from which vakıf, and until now how much revenue has accumulated in the district, and who is currently indebted, a signed and sealed register is to be procured from the district, and it is to be sent to the Evkaf-ı Hümayûn, and what is required is to be enacted with the issuance of an emr-i âli addressed to the Erzrum field marshall and to anyone else necessary.[35]

Aside from the mismanagement of evkaf revenue due to an ignorance of evkaf affairs, there were occurrences, right from the beginning, of muaccelât müdürs deliberately misusing evkaf income and property. The irregular activity of İsmail Hakkı Efendi led to protests from the inhabitants of Harput kazası and that official's recall:

> A request has been made by official petition on the matter of preventing the interference that has occurred by İsmail Hakkı Efendi, director of evkaf affairs, who has interfered in the matter of a house connected with the evkaf of the medrese of the deceased İbrahim Paşa which is located in Harput kazası and is from the evkaf attached to the Evkaf-ı Hümayûn Ministry. And because the actions of the aforesaid director are incompatible with the procedure of his office, and incompatible as well with imperial approval, his replacement has been requested by the people of the kaza, and it has been necessary to dismiss him since the aforesaid director has not been known for good administration. And owing to the fact that one of the evkaf officials, Salih Efendi, has been found to be suitable for this position, he is to be assigned a fee of one guruş in sixty from the revenue of all evkaf, and is to be appointed evkaf director ....[36]

[35] *İrade Dahiliye* No. 4082, 15 ZA 1259/1843. Erzrum, Van, Kars, Çıldır eyâletleriyle Bayezid ve Muş sancakları evkafının sûret-i idaresine dair.

[36] *İrade Dahiliye* No. 3361, 18 N 1258/1842. Şam-ı şerîfte defin-i hâk-ı ıtırnâk olan Mevlânâ Halid hazretlerinin hankâhları taamiyesiyçin alınan çiftlikten istenilen tekâlife ve mevadd-ı saireye dair.

Similarly, in 1258/1842 one Arif Efendi was appointed from among the local notables to supervise evkaf affairs for the kazas of the sancak of Amasya and the eyâlet of Sivas.[37] But until 1845 he had not sent to İstanbul either the account registers or the evkaf revenues in his charge; it was, in fact, specifically stated that not one akça had arrived from the province during his tenure in office.[38] Since Arif Efendi was found incapable of acting according to the conditions of his position, he was dismissed.[39] His conduct had apparently been suspected for some time, for a number of reports had arrived from Mehmed Paşa, the vali of Mosul, stating that he had witnessed a number of unseemly and unsuitable actions on the part of the former evkaf official. He was replaced by one Hacı Âli Efendi from the Sivas notables, and Arif Efendi's accounts were ordered to be inspected.[40]

What was requested from Arif Efendi was not unusual. An imperial decree had been issued to the effect that all evkaf within the Ottoman dominions were to have their accounts inspected yearly by officials and by the canonical courts, after which they were to have their revenues and signed account registers (defatir-i mumzaya) sent to the Imperial Evkaf Treasury.[41]

In the city of Edirne there was a considerable amount of evkaf tied to the Evkaf-ı Hümayûn and Haremeyn ministries. Together with the evkaf that had been taken over by the treasury (mazbut evkaf), and the selâtin evkaf and that of the imaret-i âmire, these evkaf had been administered for several years by persons employed from the local notables of Edirne. But it had not been possible to obtain sound administration from them, and it was reported that this was especially true of one Âli Şukrî Efendi, an official who was found culpable of total maladministration. It was recommended that he be replaced by Hasan Efendi, a provincial notable who proved to be more capable of managing evkaf affairs. The position originally had a salary of 750 guruş monthly assigned to it, but this was considered insufficient in the light of the importance of the office and the magnitude of the work. The monthly stipend was therefore increased by 1250 guruş, which raised the salary to 2000 guruş. A scribe was also assigned to the evkaf official with a salary of 500 guruş per month.[42]

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[37] *İrade Dahiliye* No. 5034, 16 RA 1261/1845. Sivas ve Amasya evkaf müdürü Arif Efendinin azliyle yerine bir münasibinin tayinine ve sabık müdürün rüyet-i muhasebesine dair.

[38] *İrade Dahiliye* No. 5034.

[39] *İrade Dahiliye* No. 5034.

[40] *İrade Dahiliye* No. 5034.

[41] *Maliyeden Müdevver* No. 9061, dated 1259/1843.

[42] *İrade Dahiliye* No. 5002, 7 RA 1261/1845. Edirne evkaf müdürü Ali Şükrî Efendinin azliyle mulhakât zimmet-i sabıkı Hasan Efendinin tayinine ve teferruâtına dair.

Until 1845, the administration of evkaf in the eyâlet of Mosul had been in the hands of one Taki Efendi, the appointed evkaf müdürü of the region. He proved to be lazy and negligent (tekâsül) in managing the affairs of his office. It was a regrettable characteristic which caused the religious and charitable foundations of the region to fall into ruin and become vacant, in spite of the fact that the province possessed extensive evkaf landed property. Taki Efendi was dismissed, and in his place Abdülgâni Efendi was appointed evkaf müdürü.[43]

On the island of Mytilene, a local council had appointed several persons to look after religious endowments in the various kazas of that island; they were dismissed in Receb of 1261/1845, however, because they were incapable of good administration. Seyyid Mehmed Nasib Bey and Ata Bey were appointed to replace them. They held the rank and title of Hacegân-ı Divan-ı Hümayûn, or department heads of the imperial chancery of state. The Hacegân were increasingly drawn upon as evkaf müdürü appointees, most probably because of their experience in administrative affairs as high-level civil servants. The local meclis of Mytilene was charged with overseeing the records of these evkaf officials to ensure that no money would remain in their debt.[44]

In the same year the evkaf-ı şerîfe located in the kazas of Mardin and Maaden-i Hümayûn, and in the eyâlets of Diyarbekir and Rakka were under the direction of evkaf müdürü İsmail Hakkı Efendi. Due to his causing an interruption in the affairs of his office and creating extraordinary expenditures, he produced a considerable debt in the Evkaf Treasury. But in light of the fact that he was of upright character and worthy of imperial pardon, his request to be employed in some suitable post in order to pay back his debt to the Evkaf Treasury was taken seriously. The government considered the poverty and hardship he suffered during the year and a half since his dismissal as punishment enough. Therefore, with the dismissal of the evkaf müdürüs for the sancaks of Ankara and Kastamonu for maladministration, İsmail Hakkı Efendi was appointed to their position with the understanding that half of his salary would be deducted to pay back his debt to the treasury.[45]

It was originally to be hoped that by appointing local notables to the administration of evkaf in their district, sound management of evkaf would thereby be ensured. Although this method was tried during the

[43] *İrade Dahiliye* No. 5249, 13 C 1261/1845. Musul eyâleti evkaf müdürlüğüne Abdulgâni Efendinin tayinine dair.

[44] *İrade Dahiliye* No. 5373, 29 B 1261/1845. Midillu ceziresiyle sair bazı kaza ve cezirelerde vâki evkaf-ı şerîfe müdürlüklerinin tebeddülâtına dair.

[45] *İrade Dahiliye* No. 5583, 18 L 1261/1845. Diyarbekir ve Raka eyâletleriyle Maadin-i hümayûn kazaları sabık evkaf müdürü İsmail Hakkı Efendiye bir münasip memuriyet verilmesine dair. See also *Cevdet Evkaf* No. 8875, 22 M 1261/1845.

first few years of the Tanzimat, it became evident that provincial notables were generally unfit for the office. The reasons can only be conjectured, but due to their incompetence, lack of reliability, and embezzlement of funds, it would seem that they were too independent of the central government to be responsible. It is for this reason that they came to be replaced by persons the Porte felt it could rely on; namely those drawn from its own civil service ranks such as the Hacegân and Kapıcıbaşılar.

But occasionally this solution misfired as well. One of the provincials of the sancak of Üsküb, and a Kapıcıbaşı in rank, Zikiraya Bey, was appointed evkaf müdürü for that province. Being a man of connection (ashab-ı alâka) however, he was occupied every year with managing the farms in his possession and in collecting the revenue from his mukataat. This prevented him from attending to evkaf affairs in a worthy manner, and so the office was transferred to another provincial, Halil Bey.[46]

One reason that was given as to why local notables (vücuh-ı mahaliye) were found unsuited to managing evkaf matters was their lack of learning and experience in such affairs. For example, it is stated that evkaf officials who had been assigned previously in the sancaks of Menteşe and Muğla to supervise evkaf-ı şerîfe were found to be unqualified owing to their lack of knowledge in evkaf administration, and it was for this reason that they were repeatedly dismissed. It was incumbent upon the government to find capable and suitable personnel for the position. Ahmed Bey, from one of the notable families of Bozok, was reported to be qualified for the office, and the evkaf of Menteşe and Muğla sancaks and their kazas were transferred to his administration.[47]

The government had originally turned to the local notables of a province to handle evkaf affairs because of their wealth and position. It was assumed that persons of means would not be tempted to divert evkaf revenues to their own purposes; it was further assumed that since they were experienced in the affairs of their province, they would be qualified to oversee religious endowments in their district. It was a mistaken assumption, on several accounts. The local notables were too distant from İstanbul to be reliable, and the conferral of this new and novel duty must have appeared to many of them as little more than an opportunity for aggrandizement. When they were honest, more often than not they were incompetent; and this incompetence caused a loss of revenue to the Evkaf Treasury.

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[46] *İrade Dahiliye* No. 6725, 15 ZA 1262/1846. Üsküb evkaf müdürünün tebdiline ve Belgrad muhafızı Vecihi Paşanın çiftliği ve saire keyfiyetine dair.

[47] *İrade Dahiliye* No. 6295, 12 B 1262/1846. Menteşe ve Muğla sancakları evkaf müdürlüğünün tebdiline dair.

In 1847 Mehmed Ağa, the evkaf müdürü of Erzerum eyâleti, had left his post for several months to return to his own province, without notice, and without authorization. Apart from this negligence, he was proven to be incompetent and dishonest. He was dismissed for embezzling evkaf revenue, and was replaced by Namik Efendi from one of the notable families of Erzerum.[48]

The evkaf müdürü for Kayseriye and Bozok sancaks, Hacı Ömer Efendi, proved himself to be lacking in capability, and was replaced by Karahisar-ı sahib evkaf müdürü Said Ağa, whose position, in turn, was taken by Ahmet Sabit Efendi, one of the Hacegân. In addition, since no one had been appointed to manage evkaf affairs for the sancak of Manastir in 1847, Melik Bey of the Selânik notables and a Kapıcıbaşı in rank was assigned evkaf müdürü.[49]

In 1847 Âsım Efendi, evkaf müdürü for Trabzon and its environs, was dismissed for overlooking a number of shortcomings and irregularities which had been witnessed in the administration of his office. He was replaced by İzzet Bey, a member of the wealthy zuama class, and the owner of extensive fief holdings.[50]

Two years later, the evkaf müdürü for Üsküb eyâleti, Mehmed Efendi, was discharged from office on the grounds of his having engaged in some unseemly activity (uygunsuz hareketi) which was not specified. He was replaced by Abdüllatif Efendi. Meanwhile, the evkaf müdürlük for Amasya and Sivas sancaks was conferred upon Seyyid Emin Efendi.[51]

The choice of Seyyid Emin Ağa for the Sivas-Amasya office was not entirely fortuitous for the Evkaf Treasury. Two years after his appointment, he was charged with embezzling the Evkaf-ı Hümayûn Treasury out of 79,231.5 guruş. It was discovered that Emin Ağa had purchased a number of lands and houses with evkaf revenue, some of which he held in his own name, together with a house he had given to his wife, but the majority of which, to avoid suspicion, he feignedly (muvazaaten) placed in the name of others. It was decided that Emin Efendi had ninety-one days within which to pay back his debt to the treasury; failing his repayment by that time, the entire lands and houses he had purchased, together with those legally in his possession, would be auctioned at a just

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[48] *İrade Dahiliye* No. 7030, 15 S 1263/1847. İzmir ve havalisi ile Erzrum eyâleti ve İstanköy ceziresi evkaf müdürlüklerine dair.

[49] *İrade Dahiliye* No. 7030.

[50] *İrade Dahiliye* No. 7152, 3 RA 1263/1847. Trabzon ve tevabii evkaf müdürü Âsım Efendinin azliye yerine İzzet Beyin tayinine dair.

[51] *İrade Dahiliye* No. 11730, 4 Z 1265/1849. Üsküb evkaf müdürlüğüne Abdüllatif Efendinin ve Sivas ve Amasyaya da Seyyid Mehmed Efendinin memuriyetine dair.

price by the local meclis, and the amount due would be acquired from the sale.[52]

In 1849 Ata Bey, the evkaf müdürü for Erdek kaza and its outlying districts, was dismissed from office owing to his not having administered evkaf in the manner desired or according to regulation. The position was therefore given to Nuri Bey, the former customs officer for Erdek kaza, who was declared to be competent for the task.[53] In 1849 as well, Hacı Hasan Efendi, the evkaf müdürü for Adana, İçel, and Tarsus sancaks, resigned his position. At the same time the evkaf müdürü for the eyâlet of Meraş was found incapable of sound administration in the affairs of his office, and was dismissed. The evkaf müdürlüks for the eyâlets of Adana and Meraş were then united and given to Abdülfettah Niyazî Efendi of the müderris class.[54]

In 1852 Tekirdağı sancak evkaf müdürü Sabrî Efendi had expended 25,100 guruş during his period in office on postal fees and stationary, and for the salary of two scribes in his employ. While stating that he had received permission from Hasib Paşa, the vali of the province, to take into his service two kâtibs, Sabrî Efendi had difficulty in defending his story when Hasib Paşa replied that he in no way authorized the hire of scribes for the evkaf official. Sabrî Efendi requested a reduction in the amount that he owed to the Evkaf treasury to 12,000 guruş. Considering the fact that there had been a precedent in accepting expenses for postal fees and paper before, and in view of the fact that Sabrî Efendi's term in office was highly beneficial to the Treasury, the amount that he was indebted for in the use of secretaries was accepted as part of the basic income and expenditures of his office, and the rest was simply disregarded.[55]

In 1852 it was declared that the evkaf müdürü for Şehrizor eyâleti, Süleyman Efendi, should not be permitted to remain in office because of certain actions which had occurred which involved his own personal advantage. He was replaced by the former evkaf müdürü for Viran Şehir, Şa'id Ağa. The post of evkaf müdürü for the eyâlet of Mosul was given to Hacı Paşa Mehmed Ağa; but due to considerable delaying and tarrying, he failed to reach the eyâlet of Mosul, and subsequently resigned.

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[52] *İrade Meclis-i vâlâ* No. 7051, 24 Ş 1267/1851. Üsküb evkaf müdürü Mehmed Emin Ağanın zimmeti tahsiline dair.

[53] *İrade Dahiliye* No. 10366, 10 S 1265/1849. Erdek kazası evkaf müdürlüğüne Nuri Beyin memuriyetine dair.

[54] *İrade Dahiliye* No. 10271, 29 M 1265/1849. Adana, İçel, ve Tarsus evkaf müdürlüğüne Abdulfettah Efendinin memuriyetine dair.

[55] *İrade Meclis-i vâlâ* No. 9863, 6 R 1269/1852. Tekirdağı sancağı evkaf müdürü esbakı Sabri Efendinin mukaddema müdürlük memuriyetinde istihdam etmiş olduğu iki kâtibe verdiği maaş ile diğer bazı masarifâtın sûret-i mahsubuna dair.

His place was taken by Hafiz Mehmed Sa'id Efendi, who had formerly held the position of Takvîmhâne-i âmire ruznamçecisi.[56]

In the year 1852 Tahir Ağa and Emin Ağa were dismissed as evkaf müdürleri for Kocaeli, Niğde, and Nevşehir sancaks since they were incapable of good administration. Hasan Hasib Efendi, one of the local notables who held the rank of rütbe-i sâlise was assigned to the Kocaeli evkaf müdürlüğü, while Abdüllatif Efendi from the hademe, or government civil service class, was appointed to the müdiriyet for Niğde and Nevşehir sancaks.[57]

By 1270/1854 it had come to light that the provincial evkaf directors had embezzled evkaf revenue by retaining for themselves the fees acquired from the sale of evkaf property. They succeeded in doing this because the title deeds of the new owners and the fees paid for them were sent separately to İstanbul. A report of 2 ZA 1270/1854 stated the problem as follows:

> It is clear from a report drawn up by the Meclis-i vâlâ and presented for imperial consideration together with a register and a report by Evkaf-ı Hümayûn Nâzırı Utufetlû Efendi that in places where there are lands existing in the provinces consisting of landed or roofed property belonging to the evkaf-ı şerîfe of haremeyn-i muhteremeyn and evkaf-ı hümayûn treasuries, and in places were there are transfers of these properties, and the transfer of vacant escheated properties the holding or lease of which has lapsed due to the death of the owner, it is evident that in these places after the title deeds have been affixed with the seal of the evkaf müdürs, the fees for these title deeds have remained in the possession of the said müdürs, and because of this loss of revenue, some seventeen yük thirty thousand guruş, or 1,730,000 guruş, is in their debt, and all of this amount will be recovered ... since the said treasuries are in considerable financial difficulty ....[58]

The loss in this case was twofold, for not only did the Evkaf Treasury not obtain the revenue from the downpayment fees when property was transferred, but the new owners were deprived of their title deeds, since their issue by the Evkaf Treasury was contingent upon the necessary fees being received. To solve the difficulty, it was ordered that the title deeds were to be given to their owners at once in order to protect them from any further wrongdoing; but as for the future, both title deeds and their fees were to be sent together to the capital.[59]

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[56] *İrade Dahiliye* No. 16350, 25 S 1269/1852, Şehrizor evkaf müdürü Süleyman Efendinin yerine takvîmhâne rüznamçecisi Mehmed Said Efendinin tayini hakkında.

[57] *İrade Dahiliye* No. 16624, 2 R 1269/1852. Kocaeli, Niğde, Nevşehir sancakları evkaf müdürlüklerine dair.

[58] *İrade Meclis-i vâlâ* No. 12980, 2 ZA 1270/1854. Taşra evkaf müdürlerin zimmetlerinde kalan temessükât harclarının istihsalına ve Salih Efendinin tahsilât müdürlüğüne ve Hasan Efendinin Haremeyn, ve İzzet Efendinin Evkaf-ı Hümayûn kitabetlerin memuriyetlerine dair.

[59] *İrade Meclis-i vâlâ* No. 12980.

While the principal means in which evkaf revenue was embezzled by the evkaf müdürs was brought to light by this report, it was utterly without effect, since the duplicity and greed of these evkaf officials grew virtually unchecked over the course of the next decade.

A basic measure taken by the Evkaf Ministry to curb the incompetence and venality of evkaf müdürs during the course of the 1850's was to replace inept and corrupt officials with those of experience and proven ability. Qualified officials were drawn from the ranks of the accounts office of the Evkaf Treasury and other departments, or they were obtained from evkaf müdürs who had demonstrated their competence and reliability.

By way of example, in 1269/1852 Hüseyin Urbanî Efendi, the evkaf müdürü for Antakya, was dismissed, and in his place was appointed Fikrî Efendi from the Evamir-i Şerîfe Odası, the Secretarial Office of the Evkaf Treasury.[60] In the same year, Emin Efendi, evkaf director for Haleb, was discharged from office because he was incapable of administering evkaf affairs in a suitable manner; Celib Efendi from the hademe, the government service officials, was appointed to succeed him.[61]

Similarly, in Şevval of 1270/1854 a number of complaints had been made against the evkaf official for the sancak of Mosul, Mehmed Said Efendi; complaints which led to his prompt dismissal. Nuri Efendi, the evkaf director for Varna and İslimiye was also dismissed from office for his lack of proper administration.[62]

In the same year, Derviş Ağa, evkaf müdürü for the eyâlet of Sivas, was charged with embezzlement of evkaf revenue; he was discharged from office and replaced by Rifat Efendi, the evkaf müdürü for Gelibolu. The evkaf müdürü for Bilecik and Eskişehir, Abdülkadir Halis Bey, was then assigned to the vacant Gelibolu post, while Abdi Bey of the Evkaf Muhasebe Odası ketebe in the Evkaf Treasury was assigned the Bilecik and Eskişehir position.[63] The decision was made on the assumption that Abdi Bey, as a secretary for the evkaf account office of the treasury, would be more qualified to carry out the duties of evkaf director.

In the following year the evkaf official for the eyâlet of Bağdad, Hurşid Ağa, was compelled to resign owing to his general incompetence in evkaf

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[60] *İrade Dahiliye* No. 16348, 13 S 1269/1852. Antakya evkaf müdürü Hüseyin Urbanî Efendinin azliyle yerine Fikrî Efendinin tayini hakkında.

[61] *İrade Dahiliye* No. 16625, 8 R 1269/1852. Haleb evkaf müdürü Emin Efendinin azliyle yerine Receb Efendinin tayini hakkında.

[62] *İrade Dahiliye* No. 19327, 14 L 1270/1854. Musul, Varna, ve İslimiye evkaf müdürlüklerine yapılan tayinlere dair.

[63] *İrade Dahiliye* No. 19722, 5 M 1271/1854. Sivas, Gelibolu, Bilecik ve Eskişehir evkaf müdürlüklerine yapılan tayinlere dair.

affairs; he was replaced by one Riza Efendi.[64] Likewise in 1272/1855, Abdülkadir Efendi, evkaf official for the sancaks of Biga and Karesi, was dismissed on the grounds that his performance in office did not meet the level desired, and he was replaced by Ahmet Rifat Efendi.[65] At the same time, Mustafa Efendi, evkaf müdürü for Viranşehir, was obliged to resign because his administration was not in accord with desired standards. His post was taken by Mehmet İzzet Efendi, who had demonstrated his competence and ability as evkaf director for the sancak of Trabzon; the post he vacated at Trabzon, in turn, was assigned to Mehmet Efendi from the hacegân, the class of senior clerks in government service.[66]

In 1273/1856, Âbid Efendi was discharged from office as evkaf müdürü for Bursa, and he was replaced by Halil Edib Efendi.[67] In the same year, a former evkaf müdürü for Drama was charged with being indebted to the Evkaf Treasury to the amount of 6,750 guruş for postal and stationary expenses which he had recorded from the income of arâzî-i mevkufe belonging to selâtin evkaf; this he did without authorization, but his debt was subsequently dismissed as being part of the normal income and expenditures of his office.[68]

In 1858 it was found necessary to dismiss İzmir evkaf müdürü İbrahim Bey; he was replaced by Emin Efendi, one of the Mektûb-ı Seraskerî mümeyyizleri, the chief clerks in the office of the War Ministry.[69] In the same year Silivri evkaf müdürü Kâmil Efendi was dismissed for having committed an unspecified offense while in office, and he was replaced by Seyyid Hasan Efendi who was a second class official in the pay office of the Evkaf Treasury.[70]

In April of 1859 Kâmil Efendi, the former evkaf müdürü for Silivri, was found guilty of having counterfeited the seal of the Evkaf-ı Hümayûn Nezareti, and of affixing this seal to a number of land deeds found in his possession. The title deeds that were forged amounted to some sixty or

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[64] *İrade Dahiliye* No. 21711, 2 S 1272/1855. Bağdad eyâleti evkaf müdürünün azliyle yerine Riza Efendinin tayini hakkında.

[65] *İrade Dahiliye* No. 23289, 24 Z 1272/1855. Musul evkaf müdürü Kadrî Efendinin istifasına binaen yerine Mehmed Rasım Efendinin tayini ve Karesi evkaf müdürünün azliyle yerine Ahmed Rifat Efendinin memuriyetine dair.

[66] *İrade Dahiliye* No. 22934, 3 L 1272/1855. Viranşehir ve Trabzon evkaf müdürlüklerine yapılan tayinlere dair.

[67] *İrade Dahiliye* No. 25014, 18 N 1273/1856. Bursa evkaf müdürü Âbid Efendinin azliyle yerine Halil Edib Efendinin tayinine dair.

[68] *İrade Dahiliye* No. 24842, 4 Ş 1273/1856. Müceddeden inşa olunan Balat'ta Kadı Sâdî mescidi imamet cihetine ve sairesine ve Ohri sancağında Visne karyesine vâki dergâh taamiyesine ve cami vazifesine ve Drama evkaf müdürüy-i sabık Mehmed Raif Efendinin posta ve kırtasiye masarıfı olarak sarf eylediği meblağın mahsubuna dair.

[69] *İrade Dahiliye* No. 27850, 2 CA 1275/1858. Filibe, Kudus, Aydın, ve sair vilâyet ve kaza evkaf müdürlüklerine yapılan tayinlere dair.

[70] *İrade Dahiliye* No. 27850.

seventy in number, and it was confirmed that Kâmil Efendi profited from this illegal action to the sum of seventeen to eighteen thousand guruş. According to the regulations of the new penal code, Kâmil Efendi was stripped of his rank as an Ottoman and reduced to the level of the common man. He was then sentenced to thirteen years of hard labor in the Tersane-i âmire, the imperial dockyards of İstanbul. A representative was then appointed to inspect and oversee his personal property, and his finances were transferred to the Nezaret-i Zabtiye, the Ministry of Public Security. The Porte did not take Kâmil Efendi's illicit activity lightly.[71]

Beginning in Şaban of 1277/1860, Mehmed Şakir Efendi, former evkaf müdürü for Niş, was imprisoned in the fortress at Vidin for embezzling evkaf funds, accepting bribes, falsifying documents, and counterfeiting the seal of the Evkaf-ı Hümayûn Nezareti. In order to recover part of the money Mehmed Şakir had taken, government officials sold his house, lands, and every piece of property they could lay their hands on, and in order to impress upon him the severity of his crime, he was sentenced to ten years in prison.[72]

It is difficult to say with certainty, and it can only be conjectured, but it would seem that by the year 1277/1860, after experiencing twenty years of brazen fraud and embezzlement by the provincial evkaf müdürs, the government began taking strong measures against evkaf officials found guilty of stealing evkaf funds, and this included prosecuting to the full letter of the law evkaf müdürleri who held positions of rank within the Ottoman system. At any rate, documentation relating to action taken against evkaf directors accused of appropriating revenue appears from 1277/1860 on.

In a petition requesting mitigation of his sentence, Mehmed Şakir Efendi expressed surprise as to how quickly he was brought to trial and sentenced, and the thoroughness with which government officials dealt with his property.[73] His petition is of interest because it is a rare instance of an Ottoman government official expressing himself in a personal and highly emotional manner. The style of his language is extremely sophisticated, and the expressions and vocabulary he employs are a florid Arabic not found in normal documentary correspondence. Unfortunately, it is not possible to tell how much of his writing is personal and how much of it is a fixed formula for someone of his station in this kind of

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[71] *İrade Meclis-i vâlâ* No. 18203, 27 N 1275/1859. Silivri evkaf müdürü Kâmil Efendinin vazı kürek olunmasına dair. For Kâmil Efendi's appointment as Silivri evkaf müdürü, see *İrade Dahiliye* No. 15800, 28 C 1268/1851.

[72] *İrade Meclis-i vâlâ* No. 20646, 23 C 1278/1861. Niş evkaf müdürü kalebend bulunan Mehmed Şakir Efendinin kalebendliklerine nefy cezasına tahviline dair.

[73] *İrade Meclis-i vâlâ* No. 20646.

situation. Whatever the case, the entreaty was not without effect, for Mehmed Şakir's sentence was commuted. The details are provided in an order dated 23 Cemaziyelâhir 1278/1861:

> Being one of the accused officials in the province of Niş and punished with imprisonment for his crime, former Niş evkaf müdürü Mehmet Şakir Efendi, who is now in Vidin, has petitioned that he be pardoned and set free from imprisonment. In reply to the single ten paragraph petition which was transmitted to the Meclis-i vâlâ on 23 Cemaziyelevvel 1278 and which has arrived, and according to the conditions of an emr-i âli which has been obtained from the office of the divan-ı hümayûn, because the said Mehmet Şakir Efendi has dared to commit such offenses as to take bribes and alter official documents, according to the decision of the Meclis-i vâlâ, and according to an imperial order of the sovereign relating to it, it is understood that he is confined in the place mentioned for a period of ten years dating from the last ten days of the month of Şaban in the year 1277/1860, and according to the tenor of the aforesaid document, since his children and his family have been reduced to extreme hardship and poverty there, and since he himself is afflicted with a constriction in the chest that he is subject to, and whereas being confined to the fortress has caused him much anxiety and suffering, according to the forty seventh article of the penal code, by an irade-i seniyye of the sovereign, the death penalty can be exchanged for being sentenced to the galleys, and sentencing to the galleys may be exchanged for imprisonment, and imprisonment for exile. As it is lawful to make these changes, and owing to the accession of the sovereign to the throne which occasions the granting of favour, with respect to the said Şakir Efendi's obtaining imperial mercy by having the punishment of being imprisoned to which he was sentenced changed to temporary banishment for a stated period of time, as this appears a suitable business, and whereas the matter of easy circumstances and conditions, and his being transferred for the remainder of his time and completing his term as an exile in Ruscuk where it is rather easy to obtain livable conditions is contingent upon imperial permission occurring, and whereas the issuance of the necessary ferman-ı âli has been discussed with respect to this, to command belongs unto him to whom all commanding belongs.[74]

A second petition requested some kind of financial support from the government during Mehmed Şakir's eight year period of exile in Ruscuk. The reason for this request was that, as he was stripped of his rank, and held no position, his only means of surviving in exile would be through begging for himself and his family. He asked for nothing more than enough food daily to stave off starvation, and enough clothing to cover those parts which were canonically forbidden to expose.[75]

Former Edirne evkaf müdürü Ayni Efendi was accused of having embezzled evkaf revenue to the total sum of 672,000 guruş.[76] 170,000

[74] *İrade Meclis-i vâlâ* No. 20646.

[75] *İrade Meclis-i vâlâ* No. 20646.

[76] *İrade Dahiliye* No. 25806, 8 RA 1274/1857. Edirne evkaf müdürü Ayni Efendinin rüyet-i muhasebesine İzzet Beyin memur edilmesine dair.

guruş pertained directly to evkaf revenue, while 490,000 guruş came from iskonto, or discounts.[77] In order to recover this revenue, Ayni Efendi's landed estates and property in Edirne were sold at auction by the government, and the income from the sale was handed over to the Evkaf-ı Hümayûn Treasury.[78] It was later discovered by further inquiry that 137,000 guruş had been spent on the imarets of Yıldırım Bayezid Han and Feyzullah Paşa in Edirne. This legitimate expenditure reduced the estimated amount of his debt from evkaf revenue from the original 170,000 guruş to some 20,000 guruş.[79] As for the 490,000 guruş that remained in his debt from iskonto, it was covered in part by the 244,000 guruş obtained from the sale of his property, but he still owed the balance of 246,000 guruş.[80] When this amount was added to the 20,000 guruş he was charged with from evkaf revenue, his remaining debt approximated some 270,000.[81] How this was to be obtained was open to question: whether the remaining part of the debt should be cancelled, or whether the debt should be deferred to a time when Ayni Efendi was financially sound was discussed in the Meclis-i vâlâ.[82] Little could be done for the present, as Ayni Efendi was in prison, his property had been sold, and he had nothing.[83] The first alternative, cancellation of the debt, was preferred because it would improve the records of the treasury, and this was the recommendation of the Council.[84]

It had been estimated in 1270/1854 that the provincial evkaf müdürs had deprived the Evkaf Treasury of 1,736,000 guruş.[85] Almost ten years later that figure increased to 7,841,000 guruş.[86] In order to recover this sum, the former evkaf müdürs were given a period of time by the Evkaf Treasury in which to pay what they owed. If they were not able to pay the amount within the time assigned by the treasury, then their lands and property were to be sold, and the amount obtained was to be accounted to their debt.[87] In the event they were to prove obstinate in the matter, then the business of obtaining the sum was to be made known to the

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[77] *İrade Dahiliye* No. 25806.
[78] *İrade Dahiliye* No. 25806.
[79] *İrade Dahiliye* No. 25806.
[80] *İrade Dahiliye* No. 25806.
[81] *İrade Dahiliye* No. 25806.
[82] *İrade Dahiliye* No. 25806.
[83] *İrade Dahiliye* No. 25806.
[84] *İrade Dahiliye* No. 25806.
[85] *İrade Meclis-i vâlâ* No. 12980, 2 ZA 1270/1854.
[86] *İrade Meclis-i vâlâ* No. 21941, 21 ZA 1279/1863. Taşralarda istihdam olunan evkaf müdürlerinin zimmetlerine dair. And *İrade Meclis-i vâlâ* No. 21574, 17 CA 1279/1862. Evkaf-ı hümayûn hazinesinin ıslahına dair.
[87] *İrade Meclis-i vâlâ* No. 21941.

ministries of commerce and justice and to the ministry of police and the office of the prefect of İstanbul.[88]

In a report written by Evkaf-ı Hümayûn Nâzırı İsmail Hakkı Paşa which was presented to the office of the grand vizir on 28 Muharrem 1280/1863, it was estimated that up to that time provincial evkaf müdürs were responsible for embezzling 7,841,414 guruş from the Evkaf Treasury, and it was conjectured that the real amount was probably several times that figure since the evkaf müdürs could not locate their records.[89]

These reports prompted a reform in the administration of provincial evkaf müdürleri. A nizamnâme or code of regulations was issued a few months following İsmail Hakkı Paşa's report. Dated 19 Cemaziyelevvel 1280/1863, the nizamnâme contained fifty-six articles on the proper procedures to be enacted by evkaf directors in the provinces.[90] A number of these regulations had as their object the intention to curb the independence and autonomy of action previously enjoyed by the evkaf müdürs.

For example, the first article stated that the evkaf müdürs, as members of the provincial council, were to be present in the provincial government office with their scribes; they were to record all matters pertaining to evkaf-ı şerîfe there; the registers and other writings of the evkaf officials were to be kept in the said government office, and were not to be taken out.[91]

The second article stated that the revenue obtained from the property of evkaf was not to be kept in the possession of the evkaf müdürleri alone, but was to be mutually held by the evkaf müdürs and provincial treasure chest custodians.[92] Both the custodians and the evkaf directors were to keep separate registers that recorded the amount placed into or taken out of the chest and any sum that was placed in or taken out of the chest without the knowledge of the other was not to be permitted.[93] In addition, all receipts for money received were to be mutually sealed by both the custodian of the chest and the evkaf müdürü.[94] As if to anticipate a possible abuse of the system, the article concludes

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[88] *İrade Meclis-i vâlâ* No. 21941.

[89] *Evkaf-i Hümayûn tarihçe-i teşkilâtı*, 124.

[90] *Düstur* I, tab'-i sâni (İstanbul 1282/1865), 142-66. Taşralarda kâin bilcümle evkaf-ı şerîfenin cihat-ı idaresile evkaf müdürlerinin harekât ve icraâtı hakkında yedlerinde bulunan atîk lâyihanın badezîn hukmu cari olmamak üzere bu kere dokuz fasıl ve elli altı bendi şamil kaleme alınan nizamnâme lâyihasıdır. Cf. as well *Yıldız* tasnıfı, 37/1219/47/112, fols. 1-20.

[91] *Düstur* I, 142.

[92] *Düstur* I, 142-3.

[93] *Düstur* I, 143.

[94] *Düstur* I, 143.

> ... it is expressly forbidden that akça be given from the mentioned chest by order and official report for any expense or for any reason; and if it does occur for any reason or by any means, and if anyone dare to spend money in this fashion, it will in no way be accepted by the treasury; and this sort of akça will at once be obtained from the evkaf müdürs, the cash chest officials, and their representatives; and, in short, since akça will not enter into or be taken out of the said chest without the mutual knowledge of the evkaf müdürs and the cash box custodians, the responsibility for this matter will fall exclusively and jointly on both the evkaf müdürs and the cash chest officials.[95]

As a further means of holding the evkaf müdürs closely and strictly accountable for their actions in financial matters, they were required to keep two separate daily registers in which they were to record all daily income and expenditures.[96] The register for expenses was to be inspected once every three months by the meclis, the provincial council, and once this was done, both registers, along with the money and receipts collected, were to be sent to the Evkaf Treasury.[97] Aside from the two registers sent every three months, a single accounts register was to be drawn up at the beginning of the year, and this yearly account book was to be sent directly to the treasury.[98] Copies of these registers were to be recorded into the accountbooks of the provincial councils, and they were to be signed and sealed by the evkaf müdür and other members of the local meclis.[99] Examples of these registers and the way in which they were to be drawn up were to be provided by the Evkaf Treasury.

In addition to the registers mentioned, the evkaf müdürs were to prepare two additional record books, to be arranged according to the sample copies sent by the treasury, in which they were to record every kind of vakıf under their jurisdiction, together with its revenue, and every kind of fixed real expense pertaining to it, along with the names of its salaried dependents and the positions and offices they held.[100] And this applied to every kind of müsakkafât roofed and müstagallât landed property. They were cautioned not to leave out the name of a single vakıf in the series of evkaf listed. After all evkaf had been recorded, together with the particulars relating to each one of them, then the original register was to be deposited in the office of the provincial council, and the other copy sent to the treasury.[101]

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[95] *Düstur* I, 143.
[96] *Düstur* I, 143-4.
[97] *Düstur* I, 144.
[98] *Düstur* I, 144.
[99] *Düstur* I, 144.
[100] *Düstur* I, 144.
[101] *Düstur* I, 144.

In the past, evkaf müdürs had often covered themselves in giving an account of missing revenue by claiming it was spent on matters relating to official business, such as postal fees and the salaries of secretaries. But as that kind of excuse was long familiar to treasury officials, by the sixth article of the nizamnâme, this recourse was no longer open to them:

> As long as the evkaf müdürs do not have official letters and letters which contain permission from the treasury, they will not be permitted to spend akça by any means for the salaries of secretaries, or for any other unauthorized expense; and if akça is personally spent in such a manner, it will not be accepted. And as to matters pertaining to the spending of money, as long as there is not an official report from the provincial council, then the evkaf müdür will not communicate this sort of matter by his own memorandum.[102]

A copy of all the records of the evkaf director leaving office were to be handed over to the incoming official, along with one half of an official seal. The other half of the seal was to be kept in a special seal box in the provincial council office; this was done so that all transactions requiring the official seal of the evkaf müdür had to be also sealed and approved by the other council members.[103] In case it were discovered that the outgoing müdür were guilty of embezzling or misappropriating funds, then the amount taken was to be made known by official report and sent to the treasury, while the evkaf müdür responsible was to be kept in custody.[104] And if it were determined that the misappropriations came about by some means other than a lack of care and attention, then the entire provincial council was to be held accountable and would be considered as partaking in the responsibility.[105]

Another means that had been resorted to for covering missing revenue was to claim that it had been expended on repairs of vakıf institutions; but by the twenty first article of the nizamnâme, this excuse was no longer valid:

> In the repair of either evkaf-ı mazbuta or evkaf-ı mulhaka, in the case where the expense is more than two thousand five hundred guruş, it is to be asked from the treasury, along with the necessary explanations, and so long as permission is not received, payment cannot be made; and if the amount exceeds what is authorized, and if expenses are paid without the knowledge of the treasury, the amount in excess will in no way be accepted.[106]

The mütevellis on their own account did not have the authority to spend any more than five hundred guruş on repairs from the revenue of

[102] *Düstur* I, 145.
[103] *Düstur* I, 145.
[104] *Düstur* I, 146.
[105] *Düstur* I, 146.
[106] *Düstur* I, 151.

the vakıf they administered.[107] Repairs in excess of this amount had to be approved by the evkaf müdürs and the provincial council. If additional expense was deemed necessary, permission would be given for expenses which amounted at most to two thousand five hundred guruş which was to come from the revenue of the vakıf.[108] Any amount beyond this had to be requested from and approved by the Evkaf Treasury. Evkaf-ı mulhaka, evkaf which was administered by mütevellis and only nominally under the control of the Evkaf Ministry, was supervised in this manner.

As for evkaf-ı mazbuta, evkaf which was entirely under the administration of the Evkaf-ı Hümayûn Ministry, whenever repairs of religious foundation buildings were requested by the mütevellis, upon proof and confirmation of the need, the evkaf müdür was required to draw up an official statement to that effect, and after it had been approved by the local meclis, the evkaf director, accompanied by a member of the provincial council, was to go to the district of the vakıf in need of repair, and after estimates had been made by master builders, a lowest-bid auction was to be held by the district council, but an outlay of no more than two thousand five hundred guruş was to be accepted.[109] When repairs were undertaken, attention had to be paid to strength and solidity.

Both the evkaf müdür and the provincial meclis were held accountable for any fraud or duplicity contemplated at the time of construction and repair. For repairs of evkaf buildings located some distance from the provincial council, allowance would be provided for only one member of the council to accompany the evkaf müdür to the district; if it so happened that an excessive and unnecessary number of officials were sent with the evkaf director, the daily allowance and baggage expense given to them would not be accepted.[110]

Provisions for imarets or soupkitchens such as soup and fodula cakes of bread, along with candles, rice, flour, sugar, clarified butter, olives, and other necessities were to be purchased by the evkaf müdür at lowest-bid auction; that is, whichever dealer offered the lowest price for these commodities sold these goods to the vakıf, and they were bought wholesale.[111] The price accepted by the evkaf müdür was to be recorded in the register for expenditures sent once every three months to the Evkaf

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[107] *Düstur* I, 151.
[108] *Düstur* I, 151.
[109] *Düstur* I, 151-2.
[110] *Düstur* I, 152.
[111] *Düstur* I, 152.

Treasury, along with receipts taken from the dealers.[112] No more than the amount stated in the vakfiyye deeds and other valid documents was to be purchased, and no provisions in excess of the recorded amount were to be obtained or assigned freely in an unaccounted for manner. If they were bought or given, the cost would be regarded as the debt of the evkaf müdür, and the full amount would be obtained from him at the time accounts were balanced.[113]

Another means the evkaf müdürs used to account for missing revenue was to declare that it had been spent on the salaries of officials for religious foundations that were in ruin and which had long ceased to have an operative staff. As for foundations that were in a complete state of ruin, neither offices nor the salaries associated with them were to be given; and as for those religious and charitable institutions that were on the verge of collapse, an estimate of the cost of repair was to be made and sent to the Evkaf Treasury.[114]

Similarly, evkaf directors were to confer appointments to office only on the sons or those stipulated in the vakfiyye deed, and appointments were not to be conferred for non-existent religious foundations, or for offices which had simply become a person's livelihood and personal gain. Nor was the office of nezaret to be conferred for evkaf-ı mazbuta once the existing nâzır had died, since evkaf-ı mazbuta were supervised and administered directly by the Evkaf Ministry.[115] Further, any salaries or rations given to vakıf personnel in excess of what was stipulated was not to be accepted without authorized permission being given; if any increase in salary were assigned or if anything were given beyond the amount that was recorded in the berat patents for the holders of these offices, it was not to be accepted, and the debt would be written to the charge of the evkaf müdürs at the time when accounts were balanced.[116]

In addition, whenever a vacancy in a position occurred for offices which were considered bî-lüzûm, unnecessary, or were metrûk, that is, offices that had become abandoned, they were to be reported, and conferral of office on the descendants of the vâkıf or those for whom the office was stipulated was not to be given, and the salaries were to be recorded as revenue for the vakıf.[117]

The conversion of icâre-i vahidelû evkaf to icâreteyn must have been a practice frequently resorted to by evkaf müdürs in the past, as it is

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[112] *Düstur* I, 152.
[113] *Düstur* I, 152-3.
[114] *Düstur* I, 153-4.
[115] *Düstur* I, 153-4.
[116] *Düstur* I, 154.
[117] *Düstur* I, 155-6.

stated in the thirty-eighth article of the nizamnâme that anyone who dared to do so would be punished with imprisonment from three months to two years, or with banishment from six months to three years.[118]

The form of embezzlement most commonly resorted to by evkaf müdürs had been to retain the fees that were received for the transfer of evkaf property when that property became vacant. The new owner was required to pay a downpayment fee for the property, and was to receive a title deed in his name from the Evkaf Treasury. Heretofore, it had been the practice of the treasury to wait until the fees were received from the evkaf müdürs before issuing temessükât, or title deeds. As the fees were not forthcoming, the temessükât were not issued, and the new owners were put off with excuses by the evkaf müdürs as to why they had not arrived.

To protect the new owner, and to put an end to this stratagem of the evkaf müdürs, the Evkaf Treasury devised the system of koçanlı ilmühabers, or printed certificates with counterfoils. Once the evkaf müdür received payment for the transfer of evkaf property from the new owner, a temporary title deed was made out and given to him. Another copy of the title deed form was sent to the treasury, and a third was kept in the office of the provincial council. In this way, the owner was provided with a provisional title deed at once, and the Evkaf Treasury was able to send an original with a minimum of delay, since the fees were received together with the temporary document. The evkaf müdürs were warned not to give these koçanlı ilmühabers for any other kind of document, except for title deeds on the transfer of property.[119]

If they had, or if they recorded prices lower than those actually stated and received, or if they paid the servants of evkaf or vakıf officials any increase or anything beyond which was recorded, or if they paid vakıf servants who were without a berat patent for their office, then any evkaf müdür who dared to do this was to be imprisoned from three months to two years, or banished from six months to three years. And if it were determined that there were any instances of bribery or stealing, then they were to be punished with the penalties for stealing state property.[120]

The fifty-sixth article of the nizamnâme ends on a precautionary note:

> Dating from the proclamation of this nizamnâme, since the former memorandum in the possession of the evkaf müdürs will no longer be in effect, pertaining to the manner of conduct and the course of action for evkaf müdürs, all laws and edicts which have been given previously and which will be given latterly will no longer remain in force; and henceforth,

[118] *Düstur* I, 157.
[119] *Düstur* I, 158.
[120] *Düstur* I, 159.

> if any action or conduct occurs which is contrary to the regulations of this nizamnâme, or if there should appear in any way fault or negligence in action, or if any such action should occur on the part of the meclis, or the mülkiye or the maliye officials, or if there appear difficulties in any way concerning the affairs of evkaf-ı şerîfe, when such a situation does occur, if it is not reported to the treasury at once by the evkaf officials, but if acquiescence and conformity are shown by silence, then the necessary procedures will be enacted against the müdürs at once, and the members of the provincial council, along with the mülkiye and maliye officials, will be held seriously accountable.[121]

At the same time that the official peccadilloes of the evkaf müdürs were coming to light, reports were submitted on the current condition of the Evkaf Ministry. According to a report of 17 Cemaziyelevvel 1279/1862, the records of the Evkaf-ı Hümayûn Nezareti were found to be in a scattered, disheveled, and confused condition. In order to rectify this situation, a number of capable efendis were to be employed by the Tahsilât Odası, or Revenue Office of the Evkaf Ministry, and they were to be given a monthly salary of two thousand five hundred guruş.[122] The money for these salaries was to come from allocations set aside for the restoration of evkaf.[123] It was estimated that after twenty years, more than one hundred thousand cases of scattered, disordered documents had been acquired, half of which belonged to the Finance Treasury.[124]

One reason why the evkaf müdürs had been so successful in embezzling evkaf revenue was because the documents they sent to the Evkaf Ministry could not be found; they had been stored in piles as they were received, and records for expenditures were mixed with accounts that recorded vakıf income; their frayed and disordered condition was testimony to the fact that they had never been examined.[125]

Made aware of the enormity of the problem, the Evkaf Ministry was determined to take reform of its own house seriously in hand, as it had with provincial evkaf administration. The problem was attributed to the Ministry being understaffed, and it was rectified by the addition of more officials. The real growth of the Evkaf Ministry dates from the year 1281/1864, when the decision was made to expand the number of zâbitân-ı aklâmı, or senior clerical officials. In 1280/1863 the number of zâbitân-ı aklâmı had been twelve, excluding the Evkaf-ı Hümayûn Nâzırı, the Evkaf Muhasebecisi (Chief Accountant), the Evkaf Mektûb-

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[121] *Düstur* I, 166.

[122] *İrade Meclis-i vâlâ* No. 21574, 17 CA 1279/1862. Evkaf-ı Hümayûn hazinesinin ıslahına dair.

[123] *İrade Meclis-i vâlâ* No. 21574; *Netayic ül-vukuat* IV, 101.

[124] *İrade Meclis-i vâlâ* No. 23663, 18 L 1281/1864. Taşralarca evkaf-ı şerîfenin mâl sandıklarından tesviyesi ve ifa kılınmakda olan hasılât ve masarifâtlarına dair.

[125] *İrade Meclis-i vâlâ* No. 23663.

çusu (Chief Secretary), and the Haremeyn Tercümanı (Interpreter for the sacred territories of Mekka and Medina); these officials were members of the cabinet and imperial council.[126] By contrast, the number of zâbitân-ı aklâmı in 1281/1864 increased to twenty-eight.[127] The added officials were occupied in dealing with the two most pressing problems of the Evkaf Ministry, namely, those of records and revenue, as is apparent from their titles.

The number of zâbitân-ı aklâmı in the Evkaf Ministry throughout the 1850's had averaged between six and eight. By way of contrast, by 1286/1869, their numbers had increased to thirty eight, and in the following year to forty-three.[128] In the first years of the 1870's the average number of senior clerks employed in the Evkaf Ministry was thirty-five.

Impressive as they were, these reforms were purely administrative in nature, order had to be imposed on chaos, especially if the Ministry of Evkaf intended to obtain a continual flow of vakıf income; the autonomy of the evkaf müdürs and the confusion of evkaf records had been serious obstacles to the realization of that objective, however. While it is true that closer supervision of evkaf directors in the provinces and an increased staff in the departments of records and revenue collection had as their intention the objective of making the Evkaf Ministry more efficient in the acquisition of evkaf income, these reforms contributed little to improvement of religious foundations throughout the empire. An increased staff had to be paid, and the source that was readily available was money reserved for the repair of religious and charitable institutions. The bureaucracy of the Imperial Evkaf Ministry came to exist for itself, and the revenue it received paid for the Ministry's growing staff of officials.

A number of the measures presented in the nizamnâme of 1280/1863 were intended to curb bribery, fraud, and embezzlement, which had been practiced freely by the evkaf müdürs until that time. Admirable as this intention was, it was difficult to put into effect when corruption was rampant throughout the Ottoman civil service, even at the highest levels.

A case in point is the matter of Veliyüddin Paşa, a former member of the Meclis-i vâlâ. According to a report of 28 Şevval 1283/1867, during the time that Veliyüddin Paşa was governor of the island of Crete, he purchased an island and constructed a mill with 401,000 guruş that he had borrowed from the Candia evkaf treasury. The money, borrowed at interest, had not been paid back, and several years after the said official left his post as governor, the evkaf officials from whom the money was

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[126] *Salnâme-i devlet-i âliye-i osmaniye* (İstanbul 1263/1846—), sene 1280/1863.
[127] *Salnâme* sene 1281/1864.
[128] *Salnâme* sene 1286/1869, and sene 1287/1870.

loaned petitioned the government for the return of both the capital and the interest, since for several years some seventy vakıf institutions had been deprived of their revenue.[129]

When queried about the matter, Veliyüddin's reply was that the mill had not been constructed for his own sake, but for the administration of the asakir-i şahane, the imperial army. As Veliyüddin Paşa was no longer a member of the Meclis-i vâlâ, he did not have the means to pay back the loan or its interest. The difficulty was solved when the government decided to purchase the island for 185,000 guruş, while the mill was also acquired by the state with an outlay of 195,000 guruş. The amount was then turned over to the Evkaf Treasury, and the 20,000 guruş that remained outstanding was requested from Veliyüddin Paşa by means of the same treasury. The scandal proved to be highly embarassing to the Ottoman government, which had no other recourse than to make good the loss from state funds, since the said efendi was in no position, by his own admission, to pay any part of the capital or the interest.[130]

The nizamnâme may have been successful in temporarily curbing some of the more flagrant abuses of the provincial evkaf müdürs. Yet the most serious impediment to reform was not fraud and deception, but rather the regulations themselves. The evkaf müdürs were expected to be highly skilled accountants well versed in the art of bookkeeping and sufficiently informed in the legal matters of evkaf-ı şerîfe. Many of them decidedly were not, and this fact was soon perceived by the Evkaf Ministry.

According to a report of 10 Cemaziyelevvel 1285/1868, — five years after the promulgation of the nizamnâme, it was recommended that those who were to be appointed evkaf müdürs would have to pass an examination in which they would be required to demonstrate their knowledge of evkaf affairs.[131] In addition to this, they were also required to show competency in financial transactions, prove they were capable of following regulations set down in the imperial law code regarding evkaf affairs, be able to express themselves in the manner intended, and prove they were capable of writing sentences that were free from error.[132]

In addition to placing the selection of provincial evkaf müdürs under a general and uniform procedure through the method of examination, it was decided that property such as land and jewelry would be taken from

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[129] *İrade Meclis-i mahsus* No. 1395, 27 M 1283/1866.

[130] *İrade Meclis-i mahsus* No. 1395.

[131] *İrade Meclis-i mahsus* No. 1485, 10 CA 1285/1868. Taşralarca evkaf mesalihi idaresinin bir sûret-i cedide-i mazbutaya rabtına dair.

[132] *İrade Meclis-i mahsus* No. 1485.

those who were appointed as evkaf müdürs at the time of their commission, and this personal wealth would then be handed over to the treasury as surety. In the event that indebtedness were proven to have occurred in any way, then this property pledged as security would be publicly sold with a view to obtaining the debt incurred.[133] A tahsilât müdüru or revenues director would then be appointed as a substitute for the evkaf müdürü, and the deeds to his lands would be kept in the treasury, while any of his valuables would be placed in the bedestan for safe keeping.[134]

But this proposed screening by examination, apprenticeship, and surety for evkaf müdür candidates was soon considered unnecessary. For, several months later, on 10 Cemaziyelevvel 1285/1868, in a special meeting of the Şuray-ı Devlet, the Council of State, the entire matter of provincial evkaf administration was critically reexamined. The conclusion reached amounted to a general indictment against the conduct of evkaf müdürs and the administration of the Evkaf-ı Hümayûn Nezareti. It was charged that from the time of its institution in the first years of the Tanzimat to the present, the Imperial Evkaf Ministry had failed to provide sound administration for evkaf affairs. Since this manner of administration proved to be insufficient, it was deemed necessary to put the direction of evkaf affairs on a new footing.[135]

It was freely admitted that since the kind of administration that was sought had not occurred, there was a need for a complete change in the procedure of managing evkaf. This new system consisted in having all evkaf accounts inspected by the canonical courts in order to prevent a further loss of revenue. Since landed and roofed property belonging to religious institutions had fallen into a regrettable condition, all arâzî-i mevkufe title deeds were to be given by the Defter-i hakânı memurları, or Land Registry officials, who had been recently placed in every eyâlet. Although carrying out this procedure had been assigned to evkaf müdürs in the provinces by the Evkaf Treasury, since verification of the transfer and sale of arâzî-i mevkufe and vacant lands had not been conducted favorably in the past by these officials, they were henceforth not to give title deeds for arâzî-i mevkufe.[136]

The majority of transactions relating to evkaf affairs was tied to the Land Registry Ministry, except for the conferral of religious and administrative offices associated with vakıf institutions. The essential aim in the transfer of a number of administrative duties from the Evkaf

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[133] *İrade Meclis-i mahsus* No. 1485.
[134] *İrade Meclis-i mahsus* No. 1485.
[135] *İrade Meclis-i mahsus* No. 1485.
[136] *İrade Meclis-i mahsus* No. 1485.

Ministry to the Land Registry was sound management and the protection of evkaf.[137]

A number of duties which had traditionally been associated with the office of the evkaf müdürs were transferred to the Defterhane-i hakânı memurları. According to official instructions promulgated on 6 Receb 1292/1875, the sphere of activity pertaining to the evkaf müdürs, now known as evkaf muhasebecileri, was limited with respect to the kinds of title deeds they could issue:

> Although title deeds will be given as before by the evkaf muhasebecileri for the müsakkafât located within villages and towns whose lands and buildings are vakıf, and only for the buildings of vakıf çiftlikât which are held by icâreteyn, and by the mütevellis for müsakkafât and müstagallât which are connected to müstesna evkaf, for those which are apart from these, that is, for places subject to the mukataa-ı zemin within and oustide cities and towns, and for vakıf lands that pay the canonical tithe and the equivalent of the tithe that are mukataa, and for vineyards and orchards whose vines and trees are vakıf, deeds to them will be paid by the defterhane-i hakânı, and in this way their sale and the recording of their sale, and the auction of vacant property and other transactions will be conducted according to regulation in the livas by the defter-i hakânı officials, and in the kazas by the tapu kâtibleri, and regulations will be observed and enacted according to the procedure that has been in force as formerly for arâzî-i mîrîye and for evkaf.[138]

Further indication that evkaf affairs in the provinces were to be conducted by defter-i hakânı officials is indicated by the following article of the tâlimâtnâme:

> Since the salaried scribes who accompany the defter-i hakânı officials would only be sufficient for the business of lands and tapu deeds, if the investigation and conducting of evkaf affairs is transferred to them as well, since difficulties will be encountered in administration in places where there is an abundance of arâzî-i mevkufe, in sancaks where there are a number of vakıfs a kâtib will be added to each and employed to look to evkaf affairs alone.[139]

The increasingly significant rôle that the defter-i hakânı played in evkaf administration in the provinces is evident from the fact that the senedât committee was transferred from the Evkaf-ı Hümayûn Nezaret-i Celîlesi and annexed to the Defter-i Hakânı Nezareti, and by the fact that the evkaf muhasebecileri were required to hand over to the defter-i hakânı memurları all records for müsakkafât and müstagallât-ı mevkufe,

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[137] *İrade Meclis-i mahsus* No. 1485.

[138] *Düstur* III (İstanbul 1293/1876), 452. Arâzî-i mevkufe senedâtının defterhaneden verilmesi hakkında ba irade-i seniye ittihaz buyurulan kararın suver-i icraiyesine dair tâlimâtdır.

[139] *Düstur* III, 456.

just as records for arâzî-i mevkufe in the provinces had been turned over to land registry officials.[140]

While the Evkaf-ı Hümayûn Nezareti continued to function throughout the period of Abdülhamid II's reign, which was from 1876 to 1909, and during the era of the Young Turks, from 1908 to 1918, the impression received for this period is that the Evkaf Ministry functioned as a dependency of the Maliye Nezareti, the Ministry of Finance, and the Defter-i hakânı, the Land Registry Office. The former had collected revenue from landed evkaf property from the beginning of the Tanzimât era, while the latter increasingly assumed the duties of provincial evkaf administration that had been the province of the evkaf müdürs.

With the advent of Mustafa Kemal's opposition government following the end of World War I and the subsequent establishment of the Turkish Republic, a number of laws were enacted which first altered, and then abolished the Imperial Evkaf Ministry. In the law of 2 May 1920, the Grand National Assembly had substituted for the offices of Şeyhülislâm and Minister of Evkaf a single Vekâlet, or Commissary.

On 29 October 1923 the Ottoman sultanate and empire were brought to an end, and a year later, on 3 March 1924, the caliphate was abolished. On the same day, by Public Law No. 429 passed by the Grand National Assembly in Ankara, the Şari'a ve Evkaf Vekâleti that had been formed four years previously was abolished; in its place a Presidency for Religious Affairs was appointed upon the recommendation of the Prime Minister. The new ministry was known as the Dinâyet İşleri Başkanlığı, which was created "for the dispatch of all cases and concerns for the Exalted Islamic Faith which relate to dogma and ritual, and for the administration of religious foundations."[141]

Then on 2 September 1925 the Grand National Assembly passed Public Law No. 677, legislation which outlawed the dervish orders throughout the new Republic of Turkey.[142] The order had the following effect:

> "(It) closed all religious houses (tekkehs and zawiyehs), and abolished all religious orders in Turkey; prohibited individuals from living as members of orders and from wearing costumes or bearing the titles associated therewith; closed all chapels (mesjids) attached to religious houses and all mausolea (turbehs); and abolished the office of custodian of such establishments.[143]

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[140] *Düstur* III, 463, birinci madde; *Düstur* III, 465, on birinci madde.
[141] A. J. Toynbee, *A Survey of International Affairs* I (London, 1927), 71 and 573.
[142] *Survey of International Affairs*, 72-3.
[143] *Survey of International Affairs*, 72-3.

The sympathies of the dervish brotherhoods towards the new republican government had been suspect for some time, and it was in Mustafa Kemal's interest to suppress any reactionary elements adverse to the new regime. The Kurdish revolt of 1925 had the support of conservative religious groups who opposed the government's secularist stance. Therefore, after the suppression of the revolt in April of 1925, Mustafa Kemal delivered a speech in Kastamonu on 30 August 1925 which was a prelude to the law abolishing the dervish orders in Turkey:

> "Gentlemen and fellow countrymen, know that the Turkish Republic cannot be a nation of sheikhs, dervishes and mystics. The truest path is the path of civilization; it is necessary for one to be a man who does what civilization dictates. I could never admit in the civilized Turkish community the existence of a primitive people who seek happiness and prosperity by putting their faith in such and such a sheikh, a man opposed to the sparkling light of civilization which encompasses all science and knowledge. In any case, the tekyes must be closed. We will obtain strength from civilization, science, and knowledge — and act accordingly. We do not recognize anything else. The essential aim of the tekyes is to keep the people in ignorance, and make them act as if they were insane. The people, however, have chosen to be neither silly nor insane."[144]

The same sentiments were reflected in a six-day speech delivered by Mustafa Kemal two years later, when the President of the Turkish Republic placed the practices of the dervish community in a most unfavorable light:

> "Could one regard as a civilized nation a mass of men who allowed themselves to be taken in tow by a rabble of sheikhs, dedes, saids, tchelebis, babas, and emirs; who entrusted their faith and their lives to chiromancers, magicians, castors of lots, and amulet sellers? Ought it be allowed in the new Turkish state, in the Turkish Republic, to have elements and institutions such as these ...?"[145]

The question posed was strictly rhetorical; Mustafa Kemal provided his own answer by outlawing the dervish brotherhoods and closing their tekyes forever.

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[144] "Atatürk," *İslâm Ansiklopedisi* I, 784.

[145] M. Kemal, *Discours du Ghazi Moustafa Kemal* (Leipzig 1929), 676.

CONCLUSION

The development of religious foundations in Islam may be attributed to several factors. It was an outgrowth of the Islamic practice of sadaka, or charitable almsgiving; and it was also the product of a very un-Islamic desire to evade the Kur'anic prescriptions on inheritance by leaving one's patrimony intact to preferred descendants. Legal precedent was readily found in Justinian's legislation governing piae causae, which accorded admirably point for legal point with the conditions respecting the creation of family evkaf. This Byzantine legislation was incorporated into the corpus of Islamic law by the celebrated Hanefî jurist and first chief kadı of the 'Abbasids, Abu Yûsuf al-Yakub. He accepted these legal principles in spite of the fact that they ran counter to the thinking of his mentor, Abu Hanifa, and counter to that of many learned conservative jurists of the time; and regardless of the fact that such principles contravened Kur'anic laws governing inheritance. He may have been bowing to custom, the common will of the community, or, most probably, the interests of the aristocracy.

While the spread of evkaf in Umayyad and 'Abbasid times may have been relatively limited compared to its development under later empires, the establishment of its essential character can be traced to this early period. Whether individuals or institutions were the objects of a pious dedication, it is clear that the creation of a religious foundation meant the disposal of one's wealth, and those that were in a position to do so were often persons of means. Men of wealth in Islamic society were the rical, the chief dignitaries of state, who commanded the armies and the administration; in fine, the ruling class. The assignment of wealth to religious and charitable ends was primarily the prerogative of the religious and military aristocracy, and their contributions were responsible for the creation of religious foundations throughout Islamic history.

Evkaf reached its fullest development under the Ottoman empire. The aristocratic character of evkaf endowments becomes clear when it is realized that in the eighteenth century ninety percent of the founders of evkaf were the notables, the erbâb-ı maalî; the ruling elite collectively defined as the erbâb-ı seyf, the men of the sword. Only some ten percent of the founders were of the reaya class, which comprised the vast majority of Ottoman society. Broken down by profession, 42 percent belonged to the rical class, 16 percent to the ulema, 9 percent to the şeyhs of the tarikats, 2 percent to the artisan class, 11 percent to men of no known profession, and 18 percent to women of no known profession. Of this lat-

ter category, the founders were either the wives and daughters of the religious or military class.[146]

The peculiar characteristic of Ottoman evkaf was that it comprised essentially mukataa, or revenue belonging to the state, usually in the form of tithes on lands, which was alienated to individuals. This revenue was assigned in the first centuries of the nascent Ottoman state as income for the military class; land grants were given in the form of fiefs, mukataalı timars and zeamets, as recompense and reward for their military service. In spite of the fact that they were deriving their income from state revenue, the continued enjoyment of which was contingent upon satisfactory service, the erbâb-ı timar class placed their landed wealth in family vakıf. Although the lands they administered and from which they derived a livelihood were not hereditary, with the passage of time they came to be regarded as such, and in this capacity as free and unincumbered private property.

Attempts were made by Selim I and Mehmed II to abolish temlik, or imperial grant evkaf based on lands assigned by the treasury. But to no avail. With the weakening and decentralization of the Ottoman empire, landed estates of the military class were increasingly converted into family evkaf and charitable evkaf to the detriment of the imperial treasury. The damaging effects to the Ottoman state in the loss of revenue was clearly signaled in the seventeenth century treatise of Koçi Bey. In spite of the warning, evkaf created from lands which were the ultimate right of the treasury continued to develop apace well into the first half of the nineteenth century.

The process of decentralization in the Ottoman empire which had proceeded almost virtually unchecked for over two centuries was arrested by the energetic measures of Sultan Mahmud II. He eliminated the semiautonomy of the derebeys, the provincial notables, destroyed the Janissary corps, which was the military arm of reaction, and established military and bureaucratic institutions directly subordinate to the will of the sovereign. All this is known well enough. Less apparent is the fact that the independence of the ulema and rical class was further weakened when the evkaf under their supervision was transferred to the Imperial Evkaf Ministry under Sultan Mahmud's direction.

The Evkaf-ı Hümayûn Nezareti functioned as an independent ministry throughout most of the period of the Tanzimat, the era of reform from 1839 to 1875. Unfortunately, the provincial evkaf officials upon which this system of administration depended, and, in large part, was based upon, proved to be generally incompetent and thoroughly cor-

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[146] Yediyıldız, "L'Institution du Vaqf," 162, and 148.

rupt. The Evkaf-ı Hümayûn Nezareti had encountered this problem from the very beginning, and attempted to resolve it by recruiting evkaf officials from various classes; first from the local notables, the vücuh-ı mahaliye, then from the ranks of the palace civil service, the Hacegân-ı Divan-ı Hümayûn and Kapıcıbaşıları and the Ağas, and later from officials of various ranks, — primarily from those officials who were within the Evkaf Ministry itself. Regrettably, these measures proved futile.

By 1868, the Ottoman government realized the error could not be rectified by reform from within; although several memoranda proposed suggestions to that effect. In a memorandum of the Şurayı Devlet, the High Council of State, it was declared that the basis for administering religious foundations under the Imperial Evkaf Ministry for the past thirty years was entirely inadequate, and had failed. It was necessary to find an alternative means to administering evkaf in the provinces, an alternative to the system of provincial evkaf müdürüs; it was found in the newly created provincial defterhane memurus, the finance officials of the Defterhane-i âmire, the Imperial Finance Ministry. Many of the functions of the provincial evkaf müdürüs were transferred to the defterdar memurları by official decree. This put an end to the independent administration of evkaf in the provinces by the Evkaf-ı Hümayûn Nezareti by the close of the Tanzimat era in 1875.

The imperial and aristocratic nature of religious foundations was responsible for their widespread development throughout Islamic history, and this largess was able to affect and benefit society on an appreciable scale. Most Ottoman evkaf was the long term lease of rights to certain kinds of revenue on state land. It was a curious development in evkaf legislation, as the fundamental requirement for a vakıf to be valid was that the substance of the property itself had to be made vakıf, and not the benefits derived from it, whether they be in the form of revenue, rents, produce, or yield. Making the revenue of mîrî lands vakıf was unquestionably canonically invalid; and, as the rights to certain kinds of revenue on these lands were only provisionally alienated by the state, they could at any time be withdrawn. Ottoman evkaf, by and large, was evkaf-ı gayr-ı sahiha, canonically unsound.

While the alienation of state revenues by the sultans allowed for the spread of religious foundations throughout the empire, at the same time, the irregular and precarious tenure of landed evkaf property meant ultimate state control of these revenues should the Ottoman state determine at any time that it was in its interest to acquire them. During the reign of Mahmud II, it was determined that it was in the best interest of the state to do so. Imperial design had created the unusual institution that was Ottoman evkaf; it was responsible for its final demise as well.

And to command belongs unto him to whom all commanding belongs.

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INDEX