

Oppression and Salvation: Annotated Legal Documents from the Ottoman Book of Complaints of 1675.

By HAIM GERBER. *Studien zur Sprache, Geschichte und Kultur der Türkvölker*, vol. 27. Berlin: KLAUS SCHWARZ, 2018. Pp. 188. €68.

This volume presents Haim Gerber's commentary on Ottoman law and legal practice accompanied by a selection of 145 entries from a late seventeenth-century complaint register (*şikayet defteri*) that he translated into English. The original register contains about 2,800 entries pertaining to complaints reported to the Imperial Council (*divan-ı hümayun*) in Istanbul, composed of the grand vizier and high-level judicial and administrative officials. These entries provide clues about how the council addressed issues concerning (but not limited to) private disputes over property, crimes against property and persons, threats to public safety such as banditry, concerns about taxation and other forms of revenue extraction, and abusive and corrupt actions by government functionaries.

The register was originally published by Hans G. Majer and a team of collaborators in facsimile accompanied by geographical indices (*Das osmanische "Registerbuch der Beschwerden" (Şikayet Defteri) vom Jahre 1675* [Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1984]). Gerber has translated about five percent of the register, in particular those entries related to the legal and administrative functions of the kadı and other judicial-administrative officials in the provinces, acts of oppression and brigandage, and complaints about corruption and abuse by government officials. It is not clear from Gerber's discussion whether the translated entries comprise all the documentation in the register relevant to these areas and, if not, why he chose the ones he did.

Gerber's volume opens with an introduction followed by two main sections. The first section ("Part I: Background Studies") is intended to provide the contextual information necessary to interpret the annotated translations presented in the second section ("Part II: Documents"). The volume also includes a glossary and bibliography, but no index.

For Gerber, a correct interpretation of the translated documents requires an appreciation of Ottoman exceptionalism in Islamic and Middle East history. Accordingly, the Ottoman polity, which sought ideological legitimacy and was motivated to ensure the long-term stability of its tax base, built a complex, rational, and generally equitable judicial administration that was oriented to render justice in its domains and serve the needs of its populations. At the heart of this structure was the kadı, who kept his eyes on the welfare of the common men and women and was instrumental to the state's intentions to keep the venality of the dynasty's provincial functionaries in check. To this effect, he applied the şeriat and state laws (sg. *kanun*) strictly and uncompromisingly, at least until the nineteenth century. Another aspect of the early-modern Ottoman polity that differentiated it from earlier and contemporary Islamic states was that it was effective in incorporating the ulema into the government's fold through state-sponsored institutions of education and government service. The ulema, in return, remained content to serve a virtuous, God-fearing polity that intended to enforce the rules of religion and protect the welfare of the believers.

There is not much new in Gerber's contextual discussion for those familiar with his work from the late 1980s and the 1990s (in particular, *Economy and Society in an Ottoman City*, 1988; *State, Society, and Law in Islam*, 1994; *Islamic Law and Culture, 1600–1840*, 1999). As in his earlier work, Gerber seems to be motivated here by the desire to defend the Ottomans from Weberian characterizations of arbitrariness, irrationality, and corruption. In fact, one would think that nothing has changed in scholarship in the last few decades. In general, Gerber prefers to refer to more recent (but still somewhat dated) research, not to learn from it but to demonstrate how misguided it is in failing to adequately appreciate the ingenuity behind Ottoman jurisprudential institutions and practices. For example, he devotes more than eight pages (pp. 27–36), some fourteen percent of part one, to a critical review of Leslie Peirce's *Morality Tales* (2003) because Peirce—following the example of anthropologist Lawrence Rosen, to whose exploration of Islamic courts in modern Morocco Gerber attributes a Weberian character—posited that the Islamic court in early sixteenth-century Aintab was responsive to local expectations of propriety and justice. Hülya Canbakal and I also receive extensive (pp. 42–48) critical commentary because we have proposed that class-, gender-, and confession-based (i.e., extrajudicial) factors might

have had a role in the provincial courts' decisions (see Canbakal's *Society and Polity in an Ottoman Town*, 2007; and my *Local Court, Provincial Society and Justice in the Ottoman Empire*, 2003).

Important in this context is the fact that Gerber's engagement with the works of these researchers focuses on how their interpretations diverge from his rather than why they diverge. As such, his discussion ignores methodological issues that I and others have raised about how we should (and should not) read the court records and what might (and might not) constitute the appropriate techniques to quantitatively and qualitatively analyze them (this is the basis of Metin Coşgel's and my methodological critique of Gerber's claims in our *Economics of Ottoman Justice* [Cambridge: Cambridge Univ. Press, 2016], chaps. 1 and 5, which is not acknowledged in the present volume). Without such an effort, it is impossible to explain widely diverging opinions among researchers on Ottoman law and legal practice. In those very brief moments that Gerber addresses reasons for variations between his and his interlocutors' interpretations, he hints that the Bursa court's operations might constitute a better example for the idealized Ottoman model than the practices of courts in Aintab (Peirce, Canbakal) or in Çankırı and Kastamonu (Ergene), which were more distant from the center or more marginal. The other (albeit unstated) reason might be that his interlocutors fail to appreciate the nuances of the Ottoman system or, worse, they misunderstand their documents.

The volume's sparse and dated bibliography is indicative of Gerber's confidence in his vision of the Ottoman judicial system and practices. I found only one study in the footnotes that was published after 2010 and none after 2013. This is a problem because the number of works on Ottoman courts and judicial processes has been steadily increasing in the last decade and inserting more nuance into our understanding of relevant issues. Consequently, very few Ottomanists are now willing to adopt a conceptual framework based on a unified judicial system, akin to that of a modern state, governed directly from and exclusively serving the functions of the imperial center. And even fewer explain (or explain away) temporal and location-based variations in legal processes with reference to a particular court's relative integration (or lack thereof) into a coherent "system." We have become also more aware of the existence of alternative venues and mechanisms of dispute resolution that, at times, marginalized the court's functions, a phenomenon that Gerber completely ignores. Furthermore, many of us have been considering the political economy of justice (which, for example, forces us to contemplate justice enforcement as, among other things, a revenue source and to consider court use in relation to its potential costs and benefits for the litigants) as a factor that shaped judicial processes.

But perhaps no other gap in this book is as conspicuous as the absence of the relevant literature on the Imperial Council, given the fact that the complaint register from which Gerber translates his documents was originally composed by this body. The bibliography contains no scholarly publication (old or new) specifically dedicated to the Council, although Gerber does opine a lot about it, its functions, and how it shaped imperial and provincial judicial processes.

In part two, Gerber's translations are presented in chapters on specific themes, to wit, "Oppression and Brigandage," "The Kadi and the Common People," "Injustice by State Officials," and "Complaints against Kadis and Naibs (Assistant Judges)." Following short "preliminary remarks," each chapter offers fifteen to thirty-five annotated entries. At times, the translations are awkward or even doubtful—for example, when Gerber translates *umumen reaya* as "the entire citizen body" (p. 88),¹ *kenar mahkeme* as "fringe area court" (p. 120), or *siyaseten* as "capital punishment" (p. 127).² Yet these entries constitute the most useful contribution of the book. We find in them clues that profoundly complicate simplistic, single-note characterization of the Ottoman judicial system and provincial administration. The documents reveal various methods by which the authorities accepted bribes, extracted revenue from common people, resisted the orders of the imperial center, forged documents, or allowed false witnesses to testify. They also demonstrate how the imperial center tried to resolve many disputes in the places where they had originated with the involvement of local kadıs and provincial administrators.

1. It is remarkable that Gerber often uses the word "citizen" to refer to Ottoman subjects, both in his background discussion and in the translations, without giving his definition of the term. At one point he makes a reference to "the natural rights of certain citizen groups" (p. 9) in the pre-nineteenth-century Ottoman context.

2. In the document (no. 65) a person who had been subjected to "capital punishment" was subsequently forced to pay fines.

For Gerber this is adequate evidence that the Ottomans made every effort to provide justice and protection to their subjects from local power-holders. For others, such as myself, who readily acknowledge the help that these documents provide in pursuit of a sophisticated understanding of the Ottoman legal system and practices, such assertions would be premature without knowing how often the provincial populations approached the Imperial Council to seek justice and how effectively their complaints were brought to satisfactory conclusions, information that is unavailable in complaint registers.

Finally, I would be remiss if I did not comment on the publisher's role in this volume. The book is poorly edited. In addition to the occasional spelling errors, the discussion lacks citations and adequate referencing. At one point (p. 53), Gerber refers to a certain "Arnold" ("As Arnold shows . . ."), who does not appear in the footnotes or the bibliography. Also, almost identical comments regarding a particular article appear in two separate places in the text (pp. 47–48 and 58–59). These are issues that could have been corrected by competent editing, which is the publisher's responsibility at least in part.

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Islam and the Rule of Justice: Image and Reality in Muslim Law and Culture. By LAWRENCE ROSEN. Chicago: UNIVERSITY OF CHICAGO PRESS, 2018. Pp. xi + 279. \$105 (cloth); \$35 (paper and ebook).

Lawrence Rosen's *Islam and the Rule of Justice* opens by acknowledging the climate of prevalent "Western fears and misunderstanding . . . about Islamic law," and enumerates a series of common misperceptions about Islamic law, including its emphasis on tradition, rules, duties, and jihad, its reliance on brutal punishment, its bias against women and minorities, and, somewhat paradoxically, its domination by the state, the full discretion of judges, and the flexibility of jurisconsults in stark contrast to the inflexibility of courts. Rosen argues that seeing "Islamic law as a living system" (p. 3) allows for context, contingency, agency, culture, and meaning, and that each element of the book comes together to provide a "synoptic view" of Islamic law, embedded in culture (p. 12). He concludes the book by setting out a series of "cultural precepts" that emerge from this synoptic view, which might then be turned to a basis for new constitutional arrangements in North Africa and the Middle East: justice as equivalence, reciprocity and structured personalism, ambivalence to power, and property as trust (p. 179). The analytic project—a synoptic view that builds on selected vignettes from Islamic law as a lived system—is given political meaning, therefore, by this background of Western misperception and the foregrounding of political transformations in the wake of the Arab Spring.

The book is divided into two parts; the first, "Following the Law," comprises four chapters on everyday life in a Muslim court, women in Muslim family courts, "shadow law" in Morocco, and Muslim–Jewish partnerships, and the second, "Justice in an Imperfect World," is made up of four chapters on "The Culture of Corruption in the Arab World," "A Guide to the Arab Street," the middle class in the Middle East, and the trial of Zacarias Moussaoui. Two chapters serve to draw out broader questions at the start and end of the book: "Approaching Islamic Law" begins with discussing "misperceptions of Islamic law," which the chapters aim to probe and contextualize, and "The Rule of Law or the Rule of Justice?" concludes the volume with a discussion of the significance of the concept of justice "in Arabs' individual and collective sentiments" (p. 167). While of uneven length, this introduction and epilogue are generally brief interventions into contemporary debates in US media and policy, based on previous primary research in Morocco (Sefrou in particular), and beyond Morocco, and on published studies ranging across the Middle East and some Muslim majority states beyond the MENA region.

Addressing potential concerns about the ability to generalize from these selected cases to the Arab world, Arabs in general, Muslims, Islam, and Islamic law, Rosen advocates that we seek "a range of variations on shared themes" (p. 2), which might prompt more careful and precise questions about Islamic law and its lived realities. At its base, this project pushes back against oversimplifications of Islam made possible and plausible by its abstraction from the tensions, historical conditions, and nego-