LAWMAKING IN AN OTTOMAN FRONTIER PROVINCE AT THE TURN OF THE SIXTEENTH CENTURY: THE MUFTI OF AKKIRMAN, HIS FATWAS AND AUTHORITY

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ABSTRACT

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Fatwas played a major role in the formation of Ottoman legal norms. However, to date, Ottoman historians have largely limited their examination of these sources to the fatwas of the chief muftis (*şeyhülislam*). The role of provincial muftis (*kenar müftüsü*) and their fatwas remains neglected. What role did these muftis play in the formation of legal norms at the edge of the empire? How did they engage with the central authority and local officers? What functions did their fatwas perform? And what was their authority and role in the legal process? In this paper, I address these questions through an analysis of the fatwas of Ali Akkirmani, an Ottoman imperial man, a scholar-bureaucrat, who received his education at Valide Sultan Madrasa in Istanbul before taking up a post as professor and mufti in his hometown, the frontier city of Akkirman, in 1591-92. He kept the post for about thirty years, until his death in 1618. As mufti, he issued fatwas on questions of various types posed to him by common people, notables, officers, judges, etc., which were collected posthumously in 1630 under the title *Fetâvâ-yı Akkirmani*. Focusing on examples drawn from that work's chapter on international law (*Kitâbu's-Siyer*), I explore how Akkirmani interpreted and adapted the learned sharia law and imperial law to augment his own juristic, imperial, and socio-political authority and to position himself as a critical player in the formation of legal norms on the Ottoman frontier .

ÖZET

ON ALTINCI YÜZYILIN SONUNDA BİR OSMANLI SINIR ŞEHRİNDE HUKUK YAPIMI: AKKİRMAN MÜFTÜSÜ, FETVALARI VE OTORİTESİ

FATIH DOĞAN

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Anahtar Kelimeler: Osmanlı İmparatorluğu, fetva, otorite, Akkirman, sınır

Fetvalar Osmanlı hukuk normlarının oluşmasında büyük rol oynamıştır. Ancak bugüne kadar Osmanlı tarihçileri Osmanlı fetvasıyla ilgili incelemelerini büyük ölçüde baş müftülerin (şeyhülislam) fetvalarıyla sınırlandırmış, taşra müftülerinin (kenar müftüsü) rolü ve fetvalarını ihmal etmişlerdir. Bu müftüler imparatorluğun sınırında yasal normların oluşumunda nasıl bir rol oynadılar? Merkezi otorite ve yerel aktörlerle nasıl ilişki kurdular? Fetvaları hangi işlevleri yerine getirdi? Hukuk oluşum sürecinde rolleri neydi? Kendi otoritelerini nasıl kurmuşlardı? Bu tezde, bu soruları bir Osmanlı imparatorluğu alim-bürokratı olan Ali Akkirmani'nin fetvaları üzerinden soracağım. Akkirmani, 1591-92'de memleketi ve bir sınır şehri olan Akkirman'da müderrislik ve müftülük görevine atanmadan önce eğitimini İstanbul'da Valide Sultan Medresesi'nde aldı. 1618'deki ölümüne kadar yaklaşık otuz yıl bu görevi sürdürdü. Müftü olarak, sıradan insanlar, ileri gelenler, resmi görevliler, kadılar vb. insanların sorularına verdiği fetvalar, ölümünden sonra 1630 yılında *Fetâvâ-yı Akkirmani* başlığıyla derlendi. Bu çalışmada, Akkirmani'nin kendi yerel bağları, hukuki ve emperyal otoritesini güçlendirmek ve kendisini Osmanlı sınırında hukuk normlarının oluşumunda kritik bir rol sahibi olarak konumlandırmak için şeriat ve imparatorluk hukukunu nasıl yorumladığını ve uyarladığını *Kitâbü's-Siyer* bölümü başta olmak üzere farklı konuları merkeze alarak cevaplamaya çalışıyorum.

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To my family

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1. INTRODUCTION

It was the spring 1606, when Kaya, the former governor (*sancakbeyi*) of Akkirman, sent bandits to encircle the house of the mufti of Akkirman. To Kaya, the mufti has gone too far by sending a petition on him to the center. Therefore, Kaya ordered his men to kill the mufti. The mufti, Ali Akkirmani (d. 1618), was aware of the danger; thus, he locked the doors of his house and did not risk himself. He must have calculated the risk that Kaya could harm him and his family before he sent his complaint to the center. Though he was frightened, he courageously sent the petition anyway. In it, he informed the center that

> Kaya, the former governor of Akkirman, did not obey the honorable orders (*evâmir-i şerîfe*) about himself.

In the imperial command through which we learn about this incident, it is stated that the mufti of Akkirman had to lock himself away for his own protection, "leaving the Muslims left without the issuance of fatwa."

I will analyze these events later in my dissertation alongside other similar records. But first, several questions need to be posed. What authority did the mufti of Akkirman rely on in challenging the former governor? Why was it so important for the people of Akkirman to have access to fatwas? If the mufti's true mission was "the issuance of fatwa," why was he the one to send the petition? What was his role in the city?

Fatwas played a major role in the formation of Ottoman legal norms. Though multiple fatwa collections belonging to the chief muftis (*şeyhülislam*) and provincial muftis (*kenar müftüsü*) have reached today, Ottoman historians have largely limited their examination to the former. Provincial muftis and their fatwa collections have been ignored in all but a few studies, and no study to date has examined the role of provincial muftis both in their local and in a larger imperial context of the Ottoman

Empire. Through the example of Ali Akkirmani, I aim to answer several questions: What role did these provincial muftis play in the formation of legal norms in the provinces of the empire? Were these norms merely abstract ideas circulating for scholarly consumption, or were they tools applied in Ottoman legal proceedings? What are the implications of this for the role of a mufti at the very edge of the empire and the fatwa collections compiled in their name? How did provincial muftis engage with the central authority and local officers? What functions did their fatwas perform? Through which avenues could an Ottoman provincial mufti establish his authority? How can one find out the theoretical and practical value of the Ottoman fatwa, if any such value existed?

In this dissertation, I will address these questions through an analysis of the fatwas of Ali Akkirmani, the mufti of Akkirman at the turn of the sixteenth century. I will show that in the late sixteenth century, fatwas were part of a complex and multifunctional legal structure and explore how Akkirmani interpreted and adapted imperial law to augment his own juristic, imperial, and local authority. I claim that in his fatwas, he was careful to stay within the bounds of the Islamic jurisprudential tradition in the concepts he used and the references he made to its founding and later authorities; but he also drew heavily on the fatwas of the Ottoman chief muftis and the decrees of the sultans (*fermân*), thereby positioning himself as a scholar-bureaucrat and spokesperson for the imperial center. Relying on this authority, Akkirmani used his office to create an alternative legal platform distinct from the courts and the official legal hierarchy, intervening in the legal cases of everyone from commoners to local officials with his fatwas. In his relations with the central imperial authorities, he adopted a different strategy, augmenting his authority by reminding his interlocutors that he was a native of Akkirman and thus knew better than anyone else how to localize juristic and imperial legal knowledge.

1.1 The Seventeenth Century Context

Starting from the late sixteenth century, the Ottoman Empire experienced profound changes in its social, economic, and political dynamics. A series of developments in the late sixteenth century shook the bases of the "classical" empire, or the "patrimonial" empire, as Baki Tezcan labels it. The two main pillars of this transformation were the limitation of royal authority and the increasing monetization of the economy within a more unified market system. The first of these pillars involved the emergence of alternative political powerholders alongside the sultan: the household

of the grand vizier separated from that of the sultan, which marked a symbolic departure from the patrimonial empire. Later in the seventeenth century, in addition, several households of pashas, viziers, and even scholars emerged. These were accompanied, if not triggered, by the rise of tax-farming at the expense of the dissolution of fief system. These changes, Tezcan argues, were so profound that a different polity, the "Second Ottoman Empire," emerged.[1]

Another significant aspect of this transformation occurred in the domain of law. As the sultan intervened in the legal sphere of the jurists during the sixteenth century, the jurists became more affiliated with the state. But as the jurists grew more politically empowered in the seventeenth century, Tezcan argues, "the jurists' law" came to be more ascendant. Moreover, it was "the jurists' law" that regulated the socio-economic dynamics of the early modern Second Ottoman Empire, rather than the feudal law of the former empire.[2]

Akkirmani's case was closely tied to these late sixteenth and early seventeenth century developments. However, to understand his muftiship and legal outlook, several earlier developments also have to be kept in mind. Three are of particular importance: the consolidation of the hierarchy of scholar-bureaucrats from the 1530s onwards, the changing nature of Ottoman law after Ebussuud, and the transformation of provincial administration toward the late sixteenth century. In addition to these, it is crucial to consider the frontier context in which Akkirmani flourished as a mufti.

1.2 The Rise of Scholar-Bureaucrats in the Late Sixteenth Century

During the mid-sixteenth century, the Ottoman polity appears to have become aware of its territorial and military limits in its competition with the Habsburgs over establishing a universal empire and with the Safavids over achieving a spiritual caliphate. Though the Ottoman dynasty did not stop voicing the same claims, the focus of actual policy preferences changed. The Ottoman center utilized several tools to establish firmer control over its provinces. After the 1530s, lands were surveyed (*tahrîrs*) and groups of registers (*mufassal* and *icmâl*) were composed accordingly. These made the Ottoman center more informed about tax capacity of its provinces. These made the Ottoman center more informed about the tax

[1] Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (Cambridge: Cambridge University Press, 2010), 10-45.

[2] Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World*, 30.

capacity of its provinces. The imperial center also endeavored to oversee provincial revenues through appointed officials (*defter kethüdâsı* and *tımâr defterdârı*). In the same vein, the placement of janissary corps in the provinces also reflects the center's desire to make its presence felt.

Both the imperial center and the provinces were controlled through a growing bureaucratic body. As the years passed, sultans preferred to stay in the center rather than leading the army on campaigns. By the second half of the sixteenth century, it was mostly grand viziers (*sadrâzam*) who led the army on campaign; and through the growing bureaucracy, it was often they who conducted state affairs. The royal family members increasingly settled in Istanbul, Edirne, and Bursa, augmenting the distinction between center and periphery.[3]

The center's embracement of scholar-bureaucrats' played an important role in the bureaucratization of the state. The *ilmiyye* class (the men of learning, comprising judges, professors, and muftis), coexisted with the *kalemiyye* class (the men of pen, including chancery, scribal, and financial officers). These two groups separated gradually during the mid-sixteenth century, as scholars were excluded from the scribal and financial assignments and only judicial and educational offices were left for them. However, on the other hand, newly established madrasas and more judgeships added to the hierarchy provided scholars with new posts and thereby more opportunities to ascend. Their appointments were regulated through new imperial orders. In this way, scholars became more and more affiliated with the state and came to occupy an important place in the Ottoman bureaucratic mechanism not only in the center but also in the provinces.

Though scholars had always fulfilled certain official duties under the Ottomans, it was only with the expansion of their hierarchical organization in the sixteenth century that their roles and the rules they followed were clearly defined and "all the features of the institutional bond between the Ottoman dynasty and its scholar-bureaucrats grew dominant and easily recognizable."[4] They thus deserved to be called "scholar-bureaucrats"—underlining their being both scholars and bureaucrats. Scholar-bureaucrats undertook several legislative and judicial duties in the imperial center and provinces. Also, they represented the existence of the Ottoman state far from the center. Their unprecedented inclusion in the Ottoman state structure meant a reciprocal transformation: as the Ottoman dynasty found ways to intervene in scholars' legal sphere, scholars also bound themselves to the Ottoman dynasty

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[3] Abdurrahman Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire* (Cambridge: Cambridge University Press, 2017), 119-33.

[4] Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 131.

to an unprecedented extent, thereby transforming the state. Ottoman law after the mid-sixteenth century could not be articulated or applied without the growing staff of scholar-bureaucrats.

1.3 Ottoman Law after Ebussuud

In conjunction with the consolidation of scholar-bureaucrats, Ottoman law underwent a critical change toward the mid-sixteenth century. The 1540s constituted a crucial phase for the transformation of the Ottoman law. During these years, being one of the most prominent actors of his age, the chief mufti Ebussuud (d. 1574) issued several fatwas demonstrating that sultanic law (*kânun*) and Islamic jurisprudence (*fıkıh*, or "sharia" as it is used in the literature) were compatible in most cases.[5] Both had existed before the 1540s; nevertheless, after this, these sources of law became so intertwined as to cease to exist as separate entities.[6] In addition to his reliance on the Islamic jurisprudential tradition, Ebussuud enforced his rulings with the authority of sultan (*emr-i sultânî*) too. Judges and muftis were obliged to follow the chief mufti's fatwas, even when they endorsed marginal views relying on weak opinions in the jurisprudential tradition.[7] In fact, Ebussuud's intervention was not a personal initiative. As Tezcan has pointed out, it was accompanied by several other developments. Yet his activities marked a critical change in the nature of the Ottoman state. As evidence of this change, a compilation of law created possibly in the reign of Selim II (d. 982/1574) included several fatwas together with sultanic laws.[8]

Recent views on the nature of Ottoman law during the sixteenth and seventeenth centuries help us make sense of this transformation. In *The Second Formation of*

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[5] "Shariah" is used in the literature in reference to Islamic law in general. Within the tradition of Islamic law, however, a distinction is drawn between shariah, as divine-oriented law, and the interpretations of scholars, which are classed as Islamic jurisprudence (*fıkıh*). I will use the term shariah in its broader sense here, mostly referring to the work of scholars.

[6] "In that sense, throughout the century, three types of relations between religio-legal opinion (*fetvâ* or fatwa) and imperial order (*fermân*) were established in general. Fatwa could confirm the imperial order. Also, fatwa could limit the imperial order and imperial order could limit fatwa." Hatice Kübra Kahya, "İstibdal Uygulamaları Işığında Osmanli Vakif Hukukunun Dönüşümü" (PhD Dissertation, İstanbul Üniversitesi, 2021), 60-62. Also see: Mehmet İpşirli, "Osmanlı Fetvaları Üzerine Değerlendirmeler ve Bazı Örnekler," in *Osmanlı Hukukunda Fetva*, ed. Yunus Uğur Süleyman Kaya, Mustafa Demiray (İstanbul: Klasik Yayınları, 2018), 163-65; Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World*, 26.

[7] The most well-known example of how the sultan and grand mufti collaborated is the case of cash endowments. Despite long debates, Ebussuud ruled that judges and muftis were to follow Imam Züfer's opinion in their decisions and jurisdictions. This issue will be elaborated in Chapter 3.

[8] 1734, Atıf Efendi, Atıf Efendi Kütüphanesi.

Islamic Law, Guy Burak claims that the Ottoman Empire adopted a specific branch within the Hanafi school (*mezheb* or madhhab) as the official state madhhab. The imperial center utilized several institutional and administrative practices to promote the official madhhab, such as appointing muftis and establishing an imperial learned hierarchy. According to Burak, this was the result of a broader development throughout the eastern Islamic lands shaped by the Chinggisid heritage in the post-Mongol era. To put it differently, Burak asserts that these new practices and institutions were legitimized and produced on the basis of this heritage, namely, dynastic law (*kânun*).[9] Burak challenges the notion that there was a conflict between *kânun* and sharia, but in doing so he seems to favor the former, thus undermining the agency of the scholars, whose purview was the latter.

Samy Ayoub in *Law, Empire and Sultan*, on the other hand, underlines jurists' agency in their approval of state intervention. Like Burak, he draws attention to the increased interference of the ruling class in the legal sphere during the Ottoman period. One of the apparent symptoms of this was the incorporation of sultanic edicts into authoritative Hanafi legal treatises.[10] However, Ayoub states that this narrative may explain only some aspects of the local Hanafi traditions in Anatolia, Syria, Palestine, and Egypt. He suggests treating the changes in legal doctrine in the Ottoman Empire within the trajectory of "Late Hanafism."[11] To him, Late Hanafis were "concerned with the contours of the role of the sultan in the process of lawmaking," and they "as a group are distinguished from their chronological predecessors within the school by their relationship with Ottoman sultanic authority." He challenges the state-centric perspective of Burak by saying that "Late Hanafi jurists did not take the contours of Ottoman imperial authority as given. They rejected, accepted, and expanded the policies and decisions made by the Sublime Porte."[12]

These two views are valuable in the sense that each tries to make sense of the special characteristics of Ottoman law, though in doing so both Burak and Ayoub emphasize different factors, respectively the Chinggisid heritage and jurists' agency in accepting state intervention. However, both seem to lack an appreciation of the historical circumstances shaping these developments. For example, while Burak mentions the Ottomans' creation of an imperial learned hierarchy as part of the formation of "official state madhhab," he fails to relate this to the larger process

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[9] Guy Burak, *The Second Formation of Islamic Law* (Cambridge University Press, 2015), 1-20, 207-23.

[10] Samy Ayoub, *Law, Empire and the Sultan: Ottoman Imperial Authority and Late Hanafî Jurisprudence* (New York: Oxford University Press, 2020), 154.

[11] Ayoub, *Law, Empire and the Sultan*, 20.

[12] Ayoub, *Law, Empire, and the Sultan*, 6-7.

of bureaucratization. Ayoub's study, on the other hand, hardly touches upon the nature of state intervention. Both generally seem to disregard the transformations during the sixteenth, seventeenth, and eighteenth centuries.

1.4 The Transformation of Provincial Administration in the Late Sixteenth and Early Seventeenth Centuries

During the sixteenth century, the essential unit for provincial administration was the *sancak* (subprovince). These were generally divided into fiefs (*dirlik*) that were granted to military officers. Depending on their offices, they were given different sizes of fiefs (*hâs*, *zeâmet*, *tımâr*), from which they collected taxes as their salary in return for their services. At the top was the governor (*sancakbeyi*), who was essentially responsible for military duties and the security over the area. Other provincial officers holding different levels of fiefs—such as *sipâhî* (provincial cavalry), *subaşı* (town commander), *zaîm* (commander)—also undertook similar responsibilities in their narrower spheres of authority.

The classical Ottoman provincial administration experienced several changes towards the late sixteenth century. This system required constant conquests to add new lands so that the center could grant them as fiefs to new candidates. After the mid-sixteenth century, due to a slowing down in the annexation of new lands, the introduction of new lands became scarcer even as the number of candidates increased.[13] The general tendency was to promote officers in lower provincial posts to rise to be the governor (sancakbeyi). Toward the end of the sixteenth and in the first half of the seventeenth century, more and more officers started to be appointed from the center rather than rising from the lower positions.[14] Also, the need for soldiers using firearms led the central administration to increase the number of janissary troops at the expense of provincial cavalrymen. To sustain the enlarging central army, the center was in need of urgent cash. This the opposite of the way the classical fief system worked, keeping the revenues of provincial areas in the provinces in return for the service of provincial officers and tying up a great part of the state's potential supply of cash. Therefore a new system, tax-farming (*iltizâm*), gradually replaced the classical fief system, to the detriment of . Governor, "who was primarily involved with the supervision of the *dirlik* holders in his district, was

[13]Metin Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650* (New York: Columbia University Press, 1983), 74-77.

[14]Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 63-67.

also reduced in stature." Though this was a gradual process that lasted for decades, the governors and other provincial officers who were the beneficiaries of that system were gradually disfavoured.[15] By mid-sixteenth century, Metin Kunt notes, such figures become rarer and rarer in the registers.

Other developments also adversely affected provincial officers and governors. For instance, their duration of office became shorter due to the congestion in the system. This reduction in tenure was a special burden for governors, who incurred large expenses in moving their households upon each new assignment.[16] Also, they received no official revenues while waiting for new posts. What was more difficult, however, was the sharp inflation and monetary crises following the devaluation and debasement of the asper in 1585.[17] Prices rose dramatically during the last decades of the sixteenth and early seventeenth centuries.[18]

Provincial governors and officers suffered from these developments. Several reports testify that provincial administrators such as governors general (*beylerbeyi*) and governors had difficulty in meeting the expenses of their households. Under this economic and political pressure, there were examples of governors dying in debt and refusing to give up their districts to new appointees. Furthermore, as the center moved to discard the fief system and its essential officers, it came to favor governors general over governors, who gradually fell from grace.[19] In other words, in the face of this financial crisis, provincial fief holders were forced largely to fend for themselves.

At the same time, provincial subjects (*reâyâ*) were suffering from the burden of new levies such as extraordinary taxes (*avârız*). These were a levy collected in times of extraordinary circumstance in the sixteenth century. However, in the course of the seventeenth century they were regularized and collected annually from all Ottoman taxpayers (urban/rural, Muslim/non-Muslim) to meet the needs of the growing central army and military campaigns and to combat inflationary difficulties.[20] In addition, Kunt puts, "just as the sultan regularized extraordinary taxes

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[15]Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 83-88.

[16]Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 77.

[17]Tezcan claims that "the debasement of the akçe was closely related to the unification of these [Ottoman currency market] zones." Baki Tezcan, "The Ottoman Monetary Crisis of 1585 Revisited," *Journal of the Economic and Social History of the Orient* 52, no. 3 (2009): 464. Also see: Şevket Pamuk, "The Price Revolution in the Ottoman Empire Reconsidered," *International Journal of Middle East Studies* 33, no. 1 (2001): 69-85.

[18]Şevket Pamuk, *A Monetary History of the Ottoman Empire* (Cambridge: Cambridge University Press, 2000), 120-22.

[19]Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 84-89.

[20]Boğaç A. Ergene, "Avarız," in *Encyclopaedia of Islam, THREE*, ed. Gudrun Krämer Kate Fleet, Denis Matringe, John Nawas, Everett Rowson (Leiden: Brill, 2022). http://dx.doi.org/10.1163/1573-

to increase his household, so the *ümerâ* (military officers) invented extra-legal taxes to increase theirs."[21] Although Kunt highlights the role of governors general in oppressing provincial subjects, other officers within the classical provincial administration system who gradually lost importance in the administrative system, such as governors, commanders, and cavalrymen, likely also sought to compensate their financial trouble by taking illegal levies from the subjects. Therefore, there was most probably widespread tension between military officers and subjects during the early seventeenth century.

1.5 Judge, Mufti, and Law Formation in the Province: Were Ottoman Fatwas "Non-Binding"?

The other line of provincial administration was carried out by scholar-bureaucrats. Judges (kadıs or qadis) carried out several municipal, administrative, and legal duties, such as serving as judges, supervising public and market affairs, and performing notarial services.[22] Governors and judges were complementary to each other in the administration of a subprovince in the sense that the former were prominent in military and security affairs whereas the latter attended to public and judicial affairs. As for judicial procedure, judges were authorized to investigate cases and judge (*kazâ*) them based on imperial law. It was governors who were responsible for the implementation of the judgement.[23]

In addition, the imperial center recruited scholar-bureaucrats in the offices of muftiship (*iftâ*) and professorship (*tedrîs*). In fact, both qadis and muftis/professors received education in the same madrasas and were expected to read more or less the same respected books from different fields of the Islamic scholarly tradition. Though their higher education was largely the same, their specialization and authority differed in terms of their offices. Generally speaking, senior professors who taught in the provincial madrasas were entrusted with the task of issuing of fatwas (*iftâ*).

Scholarship on the Ottoman provincial muftiship (*kenar müftüsü* or *taşra müftüsü*)

$3912_ei3_COM_22941; Kunt$, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 80.

[21] Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, 90-91.

[22] Abdurrahman Atçıl, "Procedure in the Ottoman Court and the Duties of Kadis" (MA Bilkent University, 2002), 33-37.

[23] Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government*, 1550-1650, 21-22. For a more detailed survey of legal procedure in the court see: Atçıl, "Procedure in the Ottoman Court and the Duties of Kadis," 42-78.

tends either to restrict provincial muftis' activity in issuing fatwa (*fetvâ*) or leave it somewhat ambiguous. Their fatwas were considered to be "authoritative but non-binding statements of law."[24] What did it mean to be a provincial mufti as a scholar-bureaucrat appointed by the center? How did a provincial mufti interpret Ottoman law in post-Ebussuud period? What was the place of the rulings of chief muftis and orders of sultans in his fatwas? How did he engage with the state authority? What were his relations with locals and officers? Through which avenues did he construct his authority? What were his roles as a mufti in the province?

The office of muftiship was generally joined to professorship, particularly for professors teaching in the most prestigious madrasa of each province.[25] According to the general descriptions, being a qadi required more engagement with administrative and judicial duties; in comparison, muftiship officially involved no more than answering questions posed to about whatever aspects of life fell in the scope of the mufti's jurisdiction.

In the second half of the sixteenth century, once a student graduated from madrasa and acquired the status of novice (*mülâzemet*)—that is, once he became a *mülâzım*—he had several career tracks he might follow. He could choose to be appointed as a madrasa professor, and to a potential joint muftiship at the same time, or he could be appointed as a qadi in the provincial towns and cities. The latter meant a relatively higher salary yet no more progress, while the former offered the chance to rise through the hierarchical ranks of the *ilmiyye*, but it took more time. However, to climb to the top, it was critical for a scholar-bureaucrat to start his career in an office located in the center/interior (*içil/dâhil*), in Istanbul, Edirne, and Bursa or their environs. Those who served in the provinces/exterior (*kenar/hâric*) early in their careers rarely advanced in the hierarchy and had to accept lower career tracks.[26] In this sense, generally, geographical setting was one of the main elements shaping scholar-bureaucrats' destiny.

Those scholar-bureaucrats who reached the top positions in the hierarchy have always been more prominent, both among Ottoman authors and modern historians. We know more about how chief muftis and chief judges influenced the political and legal scheme of the Ottoman Empire. In contrast, our knowledge of scholar-bureaucrats outside the center is quite limited.

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[24] Colin Imber, *Ebu's-su'ud: The Islamic Legal Tradition* (Edinburgh: Edinburgh University Press, 1997), 7.

[25] Holding a judgeship and a muftiship at the same time was also possible, though rare.

[26] Abdurrahman Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 177-78. These terms became ambiguous after the mid-sixteenth century. For a detailed discussion: Richard Cooper Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London: Ithaca Press, 1986), 36-42.

Prior to the Ottomans, muftiship and the issuing of fatwas was a private activity that any scholar could fulfill, albeit on the condition that one possessed certain qualifications. It thus differed from judgeship (*kazâ*) which required an appointment by a state authority.[27] Under the Ottomans, however, by the fifteenth and especially the sixteenth century, muftiship also came to be defined as a position reserved for appointed scholar-bureaucrats, just like judgeship and professorship (*tedrîs*).[28] The mufti of Istanbul was the chief mufti at the top of the hierarchy. He oversaw appointments and undertook some political duties as well. Still, in theory, his legal authority was no greater than that of muftis appointed to the province. However, by the mid-sixteenth century the fatwas of the chief mufti were backed by sultanic authority, turning them into binding opinions followed by qadis. Apart from the practical functions of this move, this was a symbolic turn for the Ottoman fatwa. Through the inclusion of muftis in an official hierarchy and with the chief mufti at the top, the Ottoman fatwa was no longer only the "non-binding" opinion it had traditionally been in the Islamic jurisprudential tradition. Instead, the fatwa became institutionalized.

The chief mufti was equal to the other muftis in the sense that he was to reply to inquiries within his jurisdiction, which stretched from Istanbul to Bursa and Edirne. In other realms of the empire, in Rumelia and Anatolia, other official muftis within the hierarchy were appointed by the center. In the Arabian provinces, on the other hand, it was usually famous local scholars who exercised muftiship. Some of them could be confirmed by the Ottoman center, some of them not; in both cases, these positions were outside of the hierarchy.

1.6 Some Views on the Ottoman Fatwa

In his 1969 article "Some Aspects of the Ottoman Fetva," Uriel Heyd describes the general characteristics of fatwas under the Ottomans. He seems to perceive Ottoman law through the dichotomy of *kânun* and sharia, for he divides legal matters into sharia law and secular state law (non-sharia law). On the other hand, he acknowledges the fatwa's wide scope as encompassing all legal matters including "secular state law." Heyd takes a balanced stance in terms of the practical effectiveness of the fatwa: "unlike the qadi's judgment, the fetva is not a sentence which must be

[27] Wael B Hallaq, *An Introduction to Islamic Law* (New York: Cambridge University Press, 2009), 9-10; Haim Gerber, *Islamic Law and Culture, 1600-1840* (Leiden: Brill, 1999), 18.

[28] Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 165-66; Yasemin Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)* (Ankara: Türk Tarih Kurumu Yayınları, 2014), 255-56.

carried out (*mulzim bi'l-hukm*); it merely gives authoritative legal advice (*mukhbir 'an al-hukm*), which in practice was not always followed by the questioner." He adds that sometimes qadis might reject a mufti's opinion. Even so, he says, the fatwa "played a major role in the development and crystallization of Muslim religious law in the last few centuries." He says that the fatwa served four main functions: (1) "to explain and apply the law in complicated cases," (2) "simply to state it for people who were not in a position to look up a lawbook themselves" (3) to be presented in lawsuits (4) to settle disputes out of court.[29] Heyd's description of the fatwa is valuable but overly general. His focus is on the chief mufti, whom he described as *primus inter pares* as far as issuing fatwa was concerned. Therefore, his account is of limited value for the fatwas issued by provincial muftis.

An article published a decade later offers more insight into the nature of provincial fatwas. In a 1978 article based on provincial court records from Kayseri, Ronald Jennings states that "so far as one can discern from the *sicil*s, he [the provincial mufti] had a single official function in the community: the issuance of *fetva*s." Jennings informs us that the Kayseri muftis rarely answered questions with more than a "yes" or "no," and they never investigated went into detail about the real case. According to Jennings, the mufti had no official role in the judicial process at all, since it is rare to encounter the name of a Kayseri mufti in the court records. He even states that those who were regular attendees at the court ceased attending after they became mufti.[30] Jennings maintained his opinion on this issue in a book published in 1993 as well, stating there that a mufti "has no investigative authority of his own." Therefore, a mufti cannot investigate whether the questioner's account is truthful, "he must give his answers only within the context provided by the one who seeks his legal opinion." A mufti "has no role in judicial procedure" either, he is only to "try to provide the best legal answers to the questions posed him." Jennings also highlights that fatwas had no more value than other kind of evidence in the court, such as witnesses or other kinds of written documents, and it was the qadi who decided if the evidence provided was relevant to the case.[31]

Fethi Gedikli holds a similar opinion to Jennings. He says that qadis used fatwas only if the fatwa agreed with their judgement, and then only rarely. After perusing hundreds of court records from Galata, Üsküdar, and Trabzon from the second half

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[29] Uriel Heyd, "Some Aspects of the Ottoman Fetvā," *Bulletin of the School of Oriental and African Studies* 32, no. 1 (1969): 54.

[30] Ronald C. Jennings, "Kadi, Court, and Legal Procedure in 17th C. Ottoman Kayseri: The Kadi and the Legal System," *Studia Islamica*, no. 48 (1978): 134-36.

[31] Ronald C. *Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640* (New York: NYU PRESS, 1993), 85-86.

of the sixteenth to the first half of the seventeenth century, he writes, he came to the conclusion that the "use of fatwa is not that widespread in the Ottoman courts." In a single book of such records, that is, a *defter*, one might come across only a few fatwas. That said, Gedikli does recognize that a qadi might have omitted mention of a fatwa presented by a litigant if he thought that it did not reflect the facts of a particular case.[32]

On the opposite side, during the 1990s, Haim Gerber, Baber Johansen, and Wael Hallaq argued that fatwas were widely used in courts and often had a powerful impact on a judge's decision.[33] Gerber found that in seventeenth-century Bursa, every single litigant who presented a fatwa won their case without any exception, but he also noted that all of their fatwas were issued by the chief mufti and that they often referenced *kânun*, particularly in cases related to agrarian and criminal matters. He therefore dismissed the notion that two opposing parties could each procure a fatwa in their favor in the same case. Because the fatwas used in the Bursa courts were all issued by the chief mufti, Gerber concluded that "a *fetva* by the *şeyhülislam* counted for more than a *fetva* of a provincial *mufti* – politically, if not formally."[34] On this basis, he distinguished between the fatwa collections of the chief muftis and those of provincial muftis. The former, he said, dealt with matters in greater abstraction and addressed socio-economic institutions such as *icâreteyn* endowments and the *qasm* system. He attributed this distinction to geographical factors and closeness to the capital: Unlike Bursa, Ankara and Kayseri had their own muftis, meaning that they the provincial muftis were closer to the cases they heard. Provincial muftis' collections were thus "flesh-and-blood stories," as opposed to the Ottoman style of fatwa written in the center, far away from the case at hand. Hence, Gerber writes, the provincial mufti "did not sit in an intellectual ivory tower, pondering his law books"; instead, "he confronted these books with real life."[35] Muftis, to Gerber, had a greater socio-political role in the province. He perceived the mufti as a figure between the qadi and the jurist, and somehow closer to the jurist. In that sense, to Gerber, the mufti constituted a link between legal thought and practice.

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[32] Fethi Gedikli, "Osmanlı Mahkemesinde Fetva Kullanımı ve Fetva-Kaza İlişkisi," in *Osmanlı Hukukunda Fetva*, ed. Yunus Uğur Süleyman Kaya, Mustafa Demiray (İstanbul: Klasik Yayınları, 2018), 207-17.

[33] Wael B Hallaq, "From Fatwās to Furū: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no. 1 (1994): 55; Baber Johansen, "Legal Literature and the Problem of Change: The Case of the Land Rent," in *Islam and Public Law*, ed. Chibli Mallat (London: Graham Trotman, 1993), 33-35.

[34] Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: SUNY Press, 1994), 82.

[35] Gerber, *Islamic Law and Culture, 1600-1840*, 34-38. Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective*, 86. Gerber derives these perceptions from Remli's and other Arab muftis' fatwas; that is why he mentions places such as Damascus, Jerusalem, and Palestine and administrative terms such as *tımâr* and *sipâhî*, specific Ottoman taxes, Ottoman military units, *Amir al-Hajj*, etc.

Gerber argues that the Islamic law emerged as a "jurists' law" that was private to the jurists and immune from state intervention, and that it preserved this character for centuries, even in the face of the various profound changes Islamic law went through under the Ottomans. These changes included the elevation of the Hanafi school over the others, the rise of the chief mufti, the institutionalization of fatwa, and the bureaucratization of scholars. Though any of these might have posed a threat to the private character of Islamic law, Gerber concludes that the jurists maintained their autonomy and independence, even in the case of a figure like Ibn Abidin, who was "a fully-fledged Ottoman employee."[36]

Johansen also draws attention to the growing importance of the fatwa under the Ottomans. "During the Ottoman period," he writes, the fatwa was "the binding interpretation of the legal doctrine of the Sunni schools of law." He ties this to the mufti's role as both "religious guide" and "legal expert":

> The differentiation between the mufti as a religious guide and a legal expert shows that the fatwa represents a level of the law in which legal and religious aspects are differentiated but not separated. The mufti is obliged to fulfil both tasks.[37]

Adopting a perspective similar to that of Gerber, Judith Tucker, in *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine*, highlights muftis as actors who, together with qadis, played an essential role in the formation of legal norms. In her book, which focuses on the women and gender issues in the seventeenth and eighteenth centuries, she relies on fatwas as much as court records. Tucker does not exclude muftis from the court as Jennings does, but states that "the muftis were an integral part of the life of court." Nor does she reduce muftis' activities to their fatwas presented in the courts. Muftis, at least those appointed by the center, ensured that the decisions of the court were compatible with official regulations. Three muftis under her scope of examination—Hayreddin Remli (d. 1671) in Remle, Hâmid b. Ali el-İmâdi (d. 1758) in Damascus, and Abdülfettâh et-Temîmi (like others muftis in Syria and Palestine generally)—were not officially assigned. Therefore, the existence of the official interpretations of law was not apparent in their fatwas. Still, they "brought their knowledge of legal doctrine and past practices to bear on the concrete situations," and their fatwa served "both

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[36] Gerber, *Islamic Law and Culture, 1600-1840*, 61, 138.

[37] Johansen, "Legal Literature and the Problem of Change: The Case of the Land Rent," 33-35.

inside and outside the court system, for the resolution of problems and disputes.[38] Tucker also determines certain differences in these muftis' relations with textual authority and attitude towards their own interpretations.[39]

Boğaç Ergene's study on the court records of Çankırı and Kastamonu also provides valuable insights. In his 2003 book *Local Court, Provincial Society and Justice in the Ottoman Empire*, he describes fatwa as "a means of legal manipulation" and attaches importance to fatwa's strategic value, from litigants' point of view, against local powerholders:

> *Fetva*, for example, was a particularly popular device among the villagers against holders of military and religious titles.[40]

He also states that despite their absence in the courts as officials and the non-bindingness of their opinions theoretically, fatwas from the muftis of Çankırı and Kastamonu "played a noteworthy role in the processes of dispute resolution." Ergene notes the relative frequency of litigants' use of fatwas and states that "they carried significant weight in the proceedings, winning legal cases for their bearers almost every time."[41] He shows that among ninety-nine cases in which fatwas were presented, the courts decided in favor of the bearer in eighty of them, while twelve hearings were resolved amicably and seven of them were judged against the fatwa holder. In other words, almost 80 percent of the cases wherein fatwa was presented resulted in favor of the fatwa. Interestingly, nine out of twelve fatwas presented by common villagers were about cases in which they had a dispute with a titleholder. On the other hand, of the forty-two fatwas presented by a titleholder, only three were against a common villager, and more than half were against another titleholder.[42] This shows that fatwas were used by the common people against officials, or by officials against other officials. That said, Ergene notes that court records alone are not a sufficient basis to assess the nature of the legal presence of muftis, their relationship with court officials, and their formal or informal involvement in court

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[38] Judith E Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (University of California Press, 1998), 15-22, 179-80.

[39] "Khayr al-Din practiced ijtihad openly and without apology; al-'Imadi was somewhat more circumspect and careful to cite textual precedent; and al-Tamimi gave the impression that rote application of preexisting rules comprised the sum total of his duties." Tucker, *In the House of the Law*, 17.

[40] Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)* (Leiden: Brill, 2003), 149, 69.

[41] Ergene, Local Court, Provincial Society and Justice in the Ottoman Empire, 31.

[42] Ergene, Local Court, Provincial Society and Justice in the Ottoman Empire, 150.

processes, though they do show that muftis answered questions and had a place in dispute resolution.[43]

In more recent years, Ottoman historians have continued their studies on the Ottoman fatwa. For example, relying on her findings in the court records of Ayntâb at the end of the seventeenth century, Hülya Canbakal has argued that plaintiffs and respondents were more likely to present fatwas in the court on public matters rather than personal concerns.[44]

For decades, the literature on the role of fatwas has revolved primarily around their function in the court. Ronald Jennings in 1978, for example, who found little evidence of fatwas being used in the courts, minimized the role of the mufti in judicial matters and limited him to only answering questions, leaving the judge as the real decision maker.[45] Gerber and Johansen, too, focused on fatwas used in courts, but in their case the focus was on the fatwas of either the chief mufti Ebussuud or Syrian muftis such as Remli (d. 1671), İmadi (d. 1758), and İbn Abidin (d. 1836), not an officially appointed provincial mufti. Tucker and Ergene continued the trend of examining fatwas as part of the court record in the 1990s and after.

But more recent studies on the Ottoman fatwa have considerably expanded this focus. Of particular note are Joshua White's work on the trans-imperial role of the chief mufti, Burak's stress on the Ottoman Hanafi official school, and Ayoub's emphasis on Late Hanafism. Burak and Ayoub's discussions on Egyptian muftis such as İbn Nüceym (d. 1563) and Şürünbülali (d. 1659) in relation to Syrian muftis Nablusi (d. 1730) and Haskefi (d. 1677), as well as İmadi, İbn Abidin, and others mentioned above, can also be regarded as notable contributions.[46] Still, however, they neglected the official muftis of Rumelia in their discussions.

Apart from these, a number of young scholars have utilized fatwa collections as the main source in their theses. These theses examine particular fatwa collections either in whole or in part, concentrating on their value and analyzing their place in the history of Islamic jurisprudence.[47] Though their findings are noteworthy, their

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[43] Ergene, Local Court, Provincial Society and Justice in the Ottoman Empire, 31.

[44] Hülya Canbakal, "Birkaç Fetva Bir Soru: Bir Hukuk Haritasına Doğru," in *Şinasi Tekin'in Anısına: Uygurlardan Osmanlıya*, ed. Günay Kut and Fatma Büyükkarcı Yılmaz (İstanbul: Simurg Yayınları, 2005).

[45] Jennings, "Kadi, Court, and Legal Procedure in 17th C. Ottoman Kayseri: The Kadi and the Legal System," 134-36.

[46] Burak, *The Second Formation of Islamic Law*; Joshua M. White, "Fetva Diplomacy: The Ottoman Şeyhülislam as Trans-Imperial Intermediary," *Journal of Early Modern History* 19, no. 2-3 (2015); Ayoub, *Law, Empire, and the Sultan: Ottoman Imperial Authority and Late Hanafī Jurisprudence*.

[47] Nuray Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili" (MA Thesis, Sakarya Üniversitesi, 2014); Ömer

agenda has nothing to do with the role of the mufti as an imperial scholar-bureaucrat.

1.7 Objectives and Structure of the Thesis

In this dissertation, I aim to explore the role of provincial muftis in Ottoman law-making through the lens of the mufti of Akkirman, Ali Akkirmani (d. 1618), and his fatwas. I examine how Akkirmani interpreted and adapted the learned sharia law and imperial law to augment his own juristic, imperial, and socio-political authority and to position himself as a critical player in the formation of legal norms on the Ottoman frontier.

The period under examination, the tenure of Akkirmani (1592-1618), corresponds with three major developments I presented above: the consolidation of the hierarchy of scholar-bureaucrats from the center to the provinces, a process that likely reached its peak during 1590s; the nature of the Ottoman law after Ebussuud, as two lines of law (*kânun* and sharia) intertwined; and the transformation of Ottoman provincial administration toward the late sixteenth century.

In terms of the first of these developments, Ali Akkirmani came to Akkirman in 1592 as a member of what was by then a highly systematized scholar-bureaucrat hierarchy. He was a representative and officer of the state, just like officials in the city, and this position lent him the state's authority. What distinguished him from other state officials was his organic relation with the city and its inhabitants, for he was a native of the city. He was born and likely lived there until his departure to Istanbul for his higher education. This relation very probably provided him a connection with the indigenous people of Akkirman quite distinct from that of other officials.

In terms of the second of these developments, Akkirmani would have learned during his education in the imperial center in the 1570s and 1580s that the body of law that he was to interpret was based on a legal understanding in which the law and state/central authority were intertwined. Central authority consisted of both sultanic orders (*fermân, emr-i âlî, izn-i sultânî*) and the fatwas of chief muftis (*fetvâ-yı şerîfe*). By the close of the century, this type of law would increase its

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Faruk Köse, "The Fatwa Collection of an Provincial Mufti Vani Mehmed Efendi (D. 1685)" (MA Thesis, Bogazici University, 2015); Elif Coşkun, "Akkirmânî Ali Efendi (Ö. 1028/1618)'nin Nikah ve Talak ile İlgili Fetvaları" (MA Thesis, Hitit Üniversitesi Sosyal Bilimler Enstitüsü, 2018); Ahmet Hamdi Fırat, "17. Asır Osmanlı Taşrasında Bir Fakih Portresi: Ali en-Nisârî," *Recep Tayyip Erdoğan Üniversitesi İlahiyat Fakültesi Dergisi*, no. 15 (2019).

ascendancy as the unified and monetized economy expanded through the army of scholar-bureaucrats. Ali Akkirmani hence made frequent references in his fatwas to the central authority, either to sultanic orders or to the fatwas of chief muftis.

In terms of the third of these developments, the town of Akkirman would certainly have experienced the transformation sweeping through the classical provincial administration system during the last decades of the sixteenth century. In the 1590s, the governor of Akkirman became subject to the governor general of Özi. The economic fluctuations of the late sixteenth century gave rise to an administrative struggle in the province, which in turn led to unrest among local officials in Akkirman such as provincial cavalrymen, commanders, stewards, judges, and even the governor himself. They must have sought to compensate for their loss by taking more from the locals, which elevated tensions between them. The increasing threat of Cossack and Polish raiders toward the 1590s must have also been a source of anxiety among city-dwellers, officials, and even the center. In this context, Ali Akkirmani challenged these local powerholders on two fronts: as another representative of the imperial center and its law on the one hand, and as a recognized actor for the city-dwellers on the other. Moreover, Akkirman was located in the frontier zone, a fact that shaped the essence of the city and the issues its people faced in their everyday lives.

It is possible to see how Akkirmani adapted Ottoman law in the late sixteenth and early seventeenth centuries in the face of these problems, and that is what this thesis will do over the following six chapters. In the first chapter, I will present Akkirman at the end of the sixteenth and in the early seventeenth century as a frontier port city. I will show that even though the city transformed into more of a trade center in this period, its military aspect gained importance again as the Cossack menace grew in the region and threatened the Black Sea shores, even the Bosporus. Furthermore, reciprocal raids taking place constantly on the frontier determined the city's daily life and legal problems. The second half of the chapter is devoted to Ali Akkirmani's life and career. I will highlight that he was trained at one of the most prestigious madrasas in the imperial center and returned to his hometown as an officially appointed scholar-bureaucrat. I also indicate the significance of his long tenure compared to the previous muftis in Akkirman.

The second chapter deals with Ali Akkirmani's fatwa collection, *Fetâvâ-yı Akkirmani*. I introduce the collection and its versions, and make an overall analysis of it in terms of its content and the periodical distribution of its copies. I also compare it with two other fatwa collections of provincial muftis contemporary to Akkirmani in terms of number of fatwas each chapter included. As a result, Akkirmani's ef-

fective engagement with the judicial procedure is revealed compared to the other collections.

In the third chapter, I will examine Akkirmani's role as a scholar-bureaucrat and active participant in lawmaking. Through his fatwas and several imperial commands, I will cover his engagements with various actors in Akkirman. In contrast to some views in the literature, I claim that the mufti of Akkirman was a major figure in lawmaking in the province. I also suggest that this was at least partly due to the seventeenth-century context, particularly the dissolution of the classical provincial administration system and increasing ascendancy of scholar-bureaucrats. The people sought refuge in the mufti of Akkirman in the face of the oppression of officials marginalized by the decline of the classical system, and Akkirmani was able to defend the people's interests against them.

The fourth chapter explores the ways Akkirmani established his authority. I argue that his education in the Sublime Porte and his being a local to the city lent him a prominence great than that enjoyed by other officials in Akkirman. He established his jurisprudential authority by engaging with authoritative texts within the Hanafi jurisprudential tradition in the form that the Ottoman scholarly tradition required. Moreover, as another essential pillar of his authority, his frequent references to sultanic orders and the fatwas of chief muftis in his own fatwas reveal that Ali Akkirmani issued his fatwas within the tradition of Ottoman law shaped by Ebussuud. This also shows his characteristic of being an official scholar-bureaucrat. In the last part of the chapter, through the references in his fatwas, I show that the scope of his jurisdiction was not restricted to Akkirman but encompassed a wider area.

The fifth chapter deals with Akkirmani's famous fatwa on cannabis. Initially in the chapter, I present the debate around cannabis in the first half of the sixteenth century through a summary of the opinion of the chief mufti Kemâlpaşazâde and responses to it. Then, I show how Akkirmani viewed the opinions before him and used the tools of authority in a scholarly matter. Then, I explain the popularity of his own ruling on the matter—a rare accomplishment for the opinion of a provincial mufti—by arguing that it was his scholarship and network that made the contribution of a provincial mufti far from the center so well known.

The sixth chapter is a case study that displays how Akkirmani interpreted Ottoman imperial law in the frontier context. At the beginning, I elaborate on the frontier nature of Akkirman, then I compare the "Chapter of International Law" (*Kitâbu's-Siyer*) of *Fetâvâ-yı Akkirmani* with several other fatwa collections of provincial muftis during the seventeenth century. I discover through this comparison that

Akkirmani's fatwas in that chapter differ from the others in addressing frontier activities and the social problems that emanated from them, which proves that Akkirmani was distinctive in his encounter and engagement with these problems. Then, I analyze several major topics in the "Chapter of International Law" and describe how Akkirmani utilized the framework and concepts of Islamic jurisprudence to address them. His familiarity with the conditions of Akkirman thanks to being local to the city made gave him a great advantage in his comprehension of the problems people faced. When needed, he also relied on imperial decrees and the fatwas of the chief mufti to construct his authority.

1.8 Sources

The core primary source of my research are Akkirmani's fatwas collected posthumously in 1630 as *Fetâvâ-yı Akkirmani*. I identified three versions of the collection; these included more or less the same fatwas but in a different order. For the sake of comparison, I occasionally consulted the fatwa collections of other provincial muftis, namely, *Fetâvâ-yı Üskübi*, *Fetâvâ* of Süleyman Efendi, *Fetâvâ-yı Bistami*, *Fetâvâ-yı Sivasiyye* and *Fetâvâ* of Abdurrahman b. İsa. Also, I used *Marûzât* of Ebussuud Efendi at times to reveal how Akkirmani used and interpreted fatwas of his institutionally superior mufti. To contextualize Akkirman and Akkirmani's fatwas, I relied on various *kânunnâme*s (code of law issued by the sultans) and numerous imperial commands (*mühimme*) decreed by the Imperial Council. I also refer to Akkirmani's testament (*vasiyetnâme*) while presenting his life.

Focusing on Ali Akkirmani and his fatwa collection is useful in two senses: (1) Although Ottoman historians have written much on the Ottoman fatwa, in general they have done so only indirectly. Rather than taking fatwas and fatwa collections as the subject of analysis, scholars have mostly drawn their conclusions on fatwas' role in the formation of Ottoman law through their use in courts and based on court records; and in line with this, they have largely been preoccupied with the question of whether fatwas had an influence on judges' decisions. (2) The majority of the fatwas analyzed in this context have belonged to the chief muftis. (3) Few scholars have focused on muftis located in the provinces, and those who have have confined their research to muftis in Arab lands; except for Zecevic's thesis, the muftis of the Balkans and Anatolia have been ignored. (4) Studies addressing the fatwas of provincial muftis have generally done so for no other reason than to highlight a particular mufti's position in the history of Islamic jurisprudence, or simply to

transcribe his rulings.

2. MAKING OF A FRONTIER PORT CITY AND ITS MUFTI

2.1 Geography and the Ottoman Conquest of Akkirman

From Carpathians to the end of Ukraine plains, so called Danubian and Pontic Europe, hosted the western part of Eurasian steppe which intersected the main mountain system of the earth. It was therefore only after the Carpathian barrier is passed when the characteristic of the Eurasian steppe begins. From Danubian basin to today's Ukraine plains, several "lengthy and, for the most part, slow-moving rivers" stream into "the Black Sea from forested zones of the north." From west to east, Danube (Tuna), Dniester (Turla), Southern Bug (Aksu), Dnieper (Özi) and Don (Ten) rivers water the plains of Ukraine and meet the Black Sea. These rivers "offered ready-made roadways for the transport of goods and men, and made possible trade and river-raiding."[1] These extremely strategical rivers surely were not to be neglected by militarily means. Almost all had important fortresses for several centuries at their mouths to control trade as well as security of the Black Sea: Kilia (Kili) at the Danube, Akkirman (Bilhorod-Dnistrovskyi/Cetatea Albă) at the Dniester, Özi (Cankirman/Ochakiv) at the Southern Bug and Dnieper, and Azak (Azov) at the Don. These rivers had a vital role to shape the sociological fate of the region as well, for it watered the soil and provided useful conditions for steppe grasses to grow, where nomads were to swarm.

Akkirman fell in the middle of this setting, where Carpathians was climbed over and the typical steppe appears, and Dniester River merges with the seawaters. These two geographical factors determined Akkirman's characteristics in the late sixteenth century as well: a frontier and port city. The city was one of the Genoese colonies across the Black Sea until the Moldavians' occupation towards the end of the fourteenth

[1] William H. McNeill, *Europe's Steppe Frontier, 1500-1800* (Chicago: University of Chicago Press, 1964), 2-4.

century.[2] As the Ottomans wanted to control over the Black Sea, they attempted to capture the castle twice in 1420 and 1454, yet both failed.[3] Two years later, Mehmed II, who was aware of the city's commercial significance for his new capital, issued an edict in 1456 which gave the merchants of Akkirman the privilege to safely trade in Edirne, Bursa and Istanbul after the Moldavian (Boğdan) voivode recognized the Ottoman sovereignty.[4] In 1484, Bayezid II eventually captured Akkirman and Kili placed at the mouth of Dniester and Danube respectively.[5] As a result of the Moldavian campaign in 1538, Akkirman's hinterland was enlarged to include Bender and Özi. By this way, the Ottomans ensured to connect Moldavia to the Black Sea.[6]

2.2 From Military Base to a Frontier Port City

The enlargement of the Ottoman territory in the region meant increasing activities of the Tatars and Cossacks within the Ottoman borders. It is possible to call the region "the Wild West" of the Ottomans, taking inspiration from Evliya Çelebi's depicting this area "ruthless deserted paths (*bir ıssız bî-amân yollardır*)."[7]

Akkirman was primarily a military base when it was seized, and maintained this feature for several decades. Its fortress was of prime importance, which still preserved

[2] Evliya Çelebi narrates that the original name of the castle was Pirgan Konman and because "in that time, this castle was so white and enlightened that as if it was pure light, therefore the Tatar people called this Castle of Pirgaz Konman 'Akkirman' for in Tatar language kirmân meant castle." Evliya Çelebi, *Evliyâ Çelebi Seyahatnâmesi V. Kitap*, ed. Kahraman and Dağlı Dankoff (İstanbul: Yapı Kredi Yayınları), 35b.

[3] Aurel Decei, "Ak Kirman," in *Encyclopaedia of Islam Volume I* (Leiden: Brill, 1979), 310-311.

[4] Halil İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600* (Cambridge: Cambridge University Press, 1994), 289.

[5] This conquest "gave the Ottomans control of trade flowing into the Black Sea from the Danube and Dniester rivers, economic control of the sea was achieved" and consequently "the Ottomans were the first power since antiquity to gain effective control of all shores of the Black Sea and the only power ever to hold the region for three centuries. Thus arose the term "Ottoman lake" to refer to the Black Sea." Victor Ostapchuk, "Black Sea," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009).

[6] Feridun M. Emecen, *Osmanlı Klasik Çağında Siyaset* (İstanbul: Kapı Yayınları, 2018), 261-62.

[7] Evliya Çelebi, *Evliyâ Çelebi Seyahatnâmesi Beşinci Cild*, ed. Ahmed Cevdet (İkdâm Matbaası: İstanbul, 1896), 176. Similarly, Feridun Emecen pictures Akkirman-Bender-Özi line as "The Wild Frontiers of the Ottomans." Feridun Emecen, "Osmanlı'nın Vahşi Sınırları: XVI. Yüzyılın Arşiv Kayıtlarından Evliya Çelebi'ye Akkirman-Bender-Özü Kesimi (The Wild Frontiers of the Ottomans: Akkirman-Bender-Özü According to Archival Documents from the 16th Century and the Account of Evliya Çelebi)," *Journal of Turkish Studies* 44 (December 2015): 215. Nikolay Antonov, on the other hand, uses a similar image for the eastern Balkans, namely Deliorman and Gerlovo located nearby Niğbolu. Geography of the region strengthens the picture of "Wild West". Evliya Çelebi pictures the environs of Akkirman as follows: "In the east and south of the city, there are incalculable yards and orchards while piles of sandhills lie in the west. They say that the sand will overwhelm the city one day." "Ve cânib-i şarkîsinde ve kıblîsinde bâğ u bâğçeleri bî-hisâbdır, ammâ cânib-i garbîsinde kumdan yığın yığın depeler vardır. Âhir-i kâr 'Bu şehri kum gark eder' derler." Çelebi, *Evliyâ Çelebi Seyahatnâmesi Beşinci Cild*, 112.

its brilliance even today. When Evliya Çelebi glorifies Galata Tower in Istanbul, he compares the moat of Galata Tower with that of Akkirman: "I have seen thousands of fortresses but never moat like this; only that of Akkirman, where the Dniester flows into the Black Sea, might match it."[8] He elaborately depicts the fortress, putting a particular emphasis on his moat and cannons, also talks about how it was strategically located to control the mouth of Dniester and near shores of the Black Sea. However, despite Evliya Çelebi's account in the mid-seventeenth century, Akkirman had been militarily significant from much earlier, once Özi and Bender were included within the Ottoman borders in 1538.

Even though both were attached as judgeships (kazâs) to Akkirman initially, the administrative roles also changed towards the end of the sixteenth century. Nevertheless, in time, Akkirman gradually transformed into more of a port city shining out with trade.[9] This inclination can be seen in the change in military-civil population rate. From 1525 to 1570s, the rate of the soldiers among the entire population decreased significantly from fifty percent to six percent.[10]

The products of the Eastern Europe were transmitted through Dniester River and reached finally Akkirman port, then transferred to the various ports along the Black Sea. For this reason the city's -mostly- illegal ports were dynamic places for trade.[11] From the center's point of view, Akkirman functioned as the gate of the Eastern Europe opening to Istanbul market. Istanbul could not have been flourished and populated in the sixteenth century without supply from the northern Black Sea. For that the owners of the herds were to provide Istanbul with 100.000 sheep annually in 1544. An imperial command in 1596 warning qadi of Akkirman to ensure that sheep were delivered to Akkirman also testifies this.[12] Customs register of Akkirman from 1505 demonstrates that Akkirman was part of a sea trade network including Istanbul, Trabzon, Rize, Caffa, Balıklago, Özi and also Crete; ships were circulating between İstanbul, Sinop, Caffa, Akkirman, Kilia and back to Istanbul. In this

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[8] Robert Dankoff and Sooyong Kim, *An Ottoman Traveller: Selections from the Book of Travels of Evliya Çelebi* (London: Eland, 2010), 18. "... bir handak-i kebîrdir kim niçe bin kala temâşâ etdik, asla misli yokdur, illâ Karadenize'e nehr-i azîm Turla mahlût olduğu mahalde ibret-nümâ kala-i Akkirman handaki ola." Evliya Çelebi, *Evliyâ Çelebi Seyahatnâmesi I. Kitap*, ed. Kahraman and Dağlı Dankoff (İstanbul: Yapı Kredi Yayınları), 128b.

[9] Emecen, "Osmanlı'nın Vahşi Sınırları: XVI. Yüzyılın Arşiv Kayıtlarından Evliya Çelebi'ye Akkirman-Bender-Özü Kesimi (The Wild Frontiers of the Ottomans: Akkirman-Bender-Özü According to Archival Documents from the 16th Century and the Account of Evliya Çelebi)," 215-17.

[10] İlhan Şahin, "XVI. Yüzyılda Akkerman'ın Demografik ve Sosyal Durumu," *Güneydoğu Avrupa Araştırmaları Dergisi* 12 (1998), 320-321.

[11] Emecen, "Osmanlı'nın Vahşi Sınırları: XVI. Yüzyılın Arşiv Kayıtlarından Evliya Çelebi'ye Akkirman-Bender-Özü Kesimi," 219.

[12] A.DVNSMHM.d., 74/550, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 192.

network, the city was importing textiles such as woolens, cottons and various food stuff such as grain, pulses, fruits and vegetables from the south, while exporting animal product such as leather and coat.[13] In addition to seaway, Akkirman was to replace Kiev in overland south-north trade. Istanbul-Akkirman-Lviv line, so called "Moldavian route", superseded the previously preferred "Tatar route" of Istanbul-Kiev-Lviv after the late fifteenth century onwards. Similarly, Edirne-Kili-Akkirman formed the south part of the south-north trade route.[14]

2.3 Society and Economic Activities

Akkirman's population increased as the military city transformed into a vivid port. The total estimated population in 1525 was 1300, 53 percent of whom were Christian and the rest were Muslim according to the cadastral survey (*Tahrîr Defteri*) dated 1525. Another cadastral survey from 1570 demonstrates that Akkirman's total population reached about 5000, with Muslim population boosted dramatically by 500 percent.[15] The Porte's resettlement policies must expectedly have played a significant role in the increase. For instance, a Turkmen tribe, Cihanşahlu from Afyonkarahisar was placed in Akkirman as well as near cities.[16] Another reason, if not the main, for this excessive rise was that city-dwellers of Akkirman were exempted from *avârız* tax throughout -at least- the sixteenth century. Thanks to this policy, many people including gypsies and Jews migrated to the city.[17] 1570 seems to be a significant year for Akkirman's transformation thanks to the grant of new trade opportunities and privileges. Thus, it became much more a local center of attraction for neighboring populations. After this year, we see a considerable increase in the settlement of the Nogays and Tatars who helped to put up resistance to the Cossacks' raids. It was also in this year's records that Armenians showing up first time in Akkirman.

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[13] K. İlker Bulunur, "Osmanlı Dönemi Karadeniz Ticaret Tarihine Katkı: Akkirman Gümrüğü (1505)," in *Omeljan Pritsak Armağanı-A Tribute to Omeljan Pritsak*, ed. Yücel Öztürk Mehmet Alpargu (Sakarya: Sakarya Üniversitesi Yayınları, 2007), 553-80; İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600*, 275, 91-92.

[14] İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600*, 276-78.

[15] İlhan Şahin, "XVI. Yüzyılda Akkerman'ın Demografik ve Sosyal Durumu," *Güneydoğu Avrupa Araştırmaları Dergisi* 12 (1998): 320-321

[16] Muharrem Bayar, "Osmanlı İmparatorluğunun Kuruluşunun 700. Yılında Rumelindeki Türk Varlığı: Evlâd-ı Fâtihân," *Türk Kültürü*, no. 445 (2000): 264.

[17] İlhan Şahin, "XVI. Yüzyılda Akkerman'ın Demografik ve Sosyal Durumu," 320-321.

Being a trade center both by land and seaways, Akkirman was a frequent destination for various ethnic and religious groups. It was Jews of Istanbul, as well as Greek and Armenian merchants, who were found in the custom registers of Akkirman and nearby cities, showing their commercial activity.[18] According to a custom register of Akkirman dated 1505, 43 percent of the arriving merchants were zimmîs, non-muslim subjects of the Ottomans, while Muslims' rate was 40 percent. *Harbî*s, non-muslim merchants coming from outside, occupied only 10 percent of the total. Departing *zimmî* merchants, on the other hand, rose to 64 percent, whereas Muslims and *harbî*s declined to 27 percent and 9 percent respectively. This data shows how actively different groups took place in the trade.[19] The ratios should have changed towards to the end of the century, as the number of Muslims increased. Regarding this data, it is not surprising that in 1596, there were 24 quarters in Akkirman, 4 of which belonged to non-muslims, one Jewish, one Copt, one Armenian and one "Tot Sava" (where Greek/Ukrain/Moldavian Christians settled).[20]

According to cadastral surveys in 1574, with 78.9 percent, the main source of the city center's income were *mukâtaa*s, the customs of Dniester River and taxes of the markets (*bâc-ı bazâr*). As for the income of the rural area, agriculture and farming constituted 82.2 percent of the total as expectedly. Taking the city and rural areas together, the former constituted 57.1 percent while the latter was 42.9 percent of the total income of Akkirman.[21] This data also reveals the commercial characteristic of Akkirman. Endowment investments also profoundly contributed to the commercial activities.[22] Selim I and Mengli Giray invested villages, *kışlak*s and *çiftlik*s in considerable number as endowment income in early 1500s. In 1570, there were 10 inns, 7 caravansaries, 7 wheat silos and 190 stores in Akkirman.[23]

This data is supported by the Code of Law of Silistre (977/1570) in which the regulations for Silistre and for the sanjaks subject to Silistre were recorded. In

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[18] Halil İnalcık, "Bursa and the Commerce of the Levant," *Journal of the Economic and Social History of the Orient* 3, no. 2 (1960): 136-39.

[19] Bulunur, "Osmanlı Dönemi Karadeniz Ticaret Tarihine Katkı: Akkirman Gümrüğü (1505)," 548-50. Halil Inalcik, on the other hand, propounds that Muslim merchants, mostly Anatolian and Rumelian Turks, surpassed the others both by sea (Bursa-İstanbul-Caffa/Akkirman) and overland (Edirne-Kilia-Akkirman) towards to the late fifteenth century. İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600*, 278.

[20] Emecen, "Osmanlı'nın Vahşi Sınırları: XVI. Yüzyılın Arşiv Kayıtlarından Evliya Çelebi'ye Akkirman-Bender-Özü Kesimi (The Wild Frontiers of the Ottomans: Akkirman-Bender-Özü According to Archival Documents from the 16th Century and the Account of Evliya Çelebi)," 219.

[21] Mustafa Işık, "XVI. Yüzyılda Akkirman Sancağı," *Karadeniz Araştırmaları*, 18 (2008): 33-35.

[22] Hamza Keleş, "Akkerman Sancağı'nda Yavuz Sultan Selim Han Vakıfları," *Gazi Eğitim Fakültesi Dergisi*, 21/2 (2001): 182.

[23] Şahin, "XVI. Yüzyılda Akkerman'ın Demografik ve Sosyal Durumu," 323.

this relatively long body of rules, taxes specifically in force in the port (*İskeleyi Akkirman*), marketplace (*İhtisâb-ı Akkirman*), villages, steppe area (*Bâzâr ve Sahrâ ve Sâyehâ-i Akkirman*) and suburb (*Varoş-i Akkirman*) indicate quite similar commercial activities. These titles also imply the geographical and economic sphere of Akkirman, that it was mainly composed of port, marketplace and the steppe area.

It was not the first legal regulation that the Porte introduced. "The Law of Customs and Transit-Levy and Taxes of Akkirman (*Kânun-ı Gümrük ve Bâc ve Rüsûm-ı Akkirman*)" was introduced in 889/1484, right after the conquest, and regulated the customs and other taxes. Another code of law was announced after eighteen years, in 907/1502 with the title of "This [Law] Explains the Taxes that the Governors Collected (*Mâ Tekaddemden Sancak Beğleri Alıgeldikleri Rüsûmu Beyân Eder ki Zikr Olunur.*) Finally, the most elaborated one was introduced in 977/1570 within abovementioned the Code of Law of Silistre.

These laws reveal Akkirman's another characteristic, to be a regional slave market. Despite contribution of pirates in Mediterranean and frontier fighters in Danubian Europe in flow of slave towards to the Ottoman cities, it was the steppes of Black Sea where "the Ottoman slave market found its principal source of supply." Particularly towards the late sixteenth century, diminishing raid activities at Balkan frontiers also enhanced Black Sea's significance in slave traffic. Compared to Kefe, Akkirman's place in Black Sea slave trade must have been insignificant.[24] It seems that Akkirman had a regional role in the western Black Sea for slave trade.

In the first one, "The Law of Customs and Transit-Levy and Taxes of Akkirman (*Kânun-ı Gümrük ve Bâc ve Rüsûm-ı Akkirman*)," introduced in 889/1484, there was not any mention of captives or slave trade.[25] Proposed in 1502, "This [Law] Explains the Taxes that the Governors Collected (*Mâ Tekaddemden Sancak Beğleri Alıgeldikleri Rüsûmu Beyân Eder ki Zikr Olunur*)" was a short one, however, contrary to the previous one, it regulated almost only taxes related to the captives.[26] The Code of Law of Silistre (*Silistre Kânunnâmesi*) in 1570, on the other hand, distinguishably brought the slave traffic to agenda with relevant codes. This long code of law covered many themes in various judgeships (*kazâ*s) of the sanjak of Silistre

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[24] McNeill informs that despite contribution of pirates in Mediterranean and frontier fighters in Danubian Europe in flow of slave towards to the Ottoman cities, it was the Pontic hinterland where "the Ottoman slave market found its principal source of supply." McNeill states that this was because slave marketing organization and collaboration between Tatars and slave merchants in Kefe, which Hungary, for example, lacked. McNeill, *Europe's Steppe Frontier, 1500-1800*, 27-30.

[25] Kanun-ı Gümrük ve Bâc ve Rüsûm-ı Akkirman, 123b-24b, Topkapı Sarayı Müzesi Kütüphanesi, Revan Köşkü, 1935.

[26] Mâ Tekaddemden Sancak Beğleri Alıgeldikleri Rüsûmu Beyân Eder ki Zikr Olunur, 262b, Bibliotheque nationale de France, Ancien fonds turc, 85.

and Akkirman. Among all other judgeships, only and most detailed regulations related to the captives were for Akkirman. Numerous articles adjusted the taxes regarding how old the slave was, where the slave was taken from, by which way the captives were brought, so on and so forth. For example, under the subtitle of "The Code of Law of the Port of Akkirman in Dniester River which is Currently in Force (*Kânunnâme-i İskele-i Akkirman Der Âb-ı Torlu ki Hâliyâ İcrâ Olunur*)," it was stated that: "If a slave comes from Kefe and Gözlü with evidence? (*hüccet*), 78 aspers from adult, 39 aspers from youngs and 20 aspers from infant but not sucking milk are taken as customs." Interestingly, among various specified slave groups, the most valuable ones were those brought from Tatar region: "And for captives arriving in the pier of Akkirman from Tatar lands, 215 aspers from adult, 103 aspers from youngs and 51 aspers from are infant but not sucking milk taken."[27] That was because Tatar lands were considered outside of the Ottoman Empire and therefore fully taxed, while Kefe and Gözlü (also probably Azov and Taman peninsula as well) were within the Ottoman territory.[28]

The picture of slave traffic in Akkirman also compatible with Evliya Çelebi's accounts. He depicts this scene as "there are plenty of loveable male and female captives in its market (*Bâzârında mahbûb ve mahbûbe esirleri çokdur*)."[29] Increase in detail and extent in codes of law of Akkirman in time about taxes of captives indicates that towards the end of the sixteenth century, traffic of captives rose. Therefore, we can deduce that transborder raid activities in Akkirman frontier had a crucial importance at the late sixteenth century.

2.4 Located at the Frontier Zone: "Wild West of the Ottomans"

Akkirman was connected with the Balkans and Istanbul politically and commercially. However, considerable number of the inhabitants showed the characteristics of the lifestyle of steppe societies.

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[27] "Kefe'den ve Gözlü'den hüccet ile esîr gelse kebîrinden yetmiş sekiz akçe ve sağîrinden otuz dokuz akçe şîrhore olmayan gâyet sağîrden yirmi akçe alına ki gümrük akçesidir." "Ve Akkirman iskelesine Tatar elinden gelen üsârânın kebîrinden iki yüz on beş akçe ve sağîrinden yüz üç akçe ve gâyet sağîrinden elli bir akçe alınır." Kanunname-yi Silistre, BOA TTD 483, v. 18-20.

[28] Michael Khodarkovsky, *Russia's Steppe Frontier: the Making of a Colonial Empire, 1500-1800* (Bloomington: Indiana University Press, 2002), 23-24. To understand the significance of the slave trade for the region, we shall look at Khodarkovsky's statement that "In the late sixteenth century, Ottoman revenues from the slave tax constituted almost one-third of the total revenue of the Ottoman possessions in the Crimea."

[29] Çelebi, *Evliyâ Çelebi Seyahatnâmesi V. Kitap*, 36b.

Climate and fertile soil of the steppe were undoubtedly quite convenient for agriculture. However, traditional agricultural techniques had its limits requiring much energy and careful work. Vast plains enabled rapid mobilization thanks to the horses. This enhanced military superiority of over the sedentary. Unless there was a professional military force, sedentary people were vulnerable to Turco-Mongol wanderers. Still, nomads' inevitable need for agricultural products somehow stabilized the relations to some extent.[30]

The dissolution of the Golden Horde at the late fifteenth century produced fully nomadic steppe societies such as Nogays, rudimentary city-state khanates with a peculiar combination of sedentary and nomadic lifestyles and nomadic confederations such as Crimean Tatars and Cossacks respectively. Therefore, these Turco-Mongol societies were the ruins of the Mongol Empire, dominating the north of the Black Sea covered by large steppes. These steppes were not under full control of any of the states bordering on them. The attack of the nomads was an everyday reality of steppe life except for temporal peace between the nomads and the states. Hence until the late eighteenth century, Russia at the north, Polish-Lithuania Commonwealth at the west and the Ottomans at the south (the line of Akkirman, Bender, Özi in particular, and Moldavia (*Boğdan*) to some extent) had to deal with these tribal people who predominated the vast area from the Danube to Aral.[31]

Akkirman and its environs became starting point of continual and mutual raids by Tatars towards Polish and Russian lands. Therefore, the region was likely to be fruitful in terms of frontier raids and plunders activities, not with regular armies, but mostly as business as Evliya Çelebi's narrates that the inhabitants of Akkirman used to go to earn their livelihood.[32]

Ottoman policy of populating Nogays and Tatars to the westside of Crimea towards to the late sixteenth century contributed this already mixed scene. In fact, this policy was a result of internal problems of the Crimean Khanate. The khans were struggling to keep these nomadic tribes out of Crimea, and starting from 1546, Sahib Giray exerted dominance over them and settled them the northern steppes of Black Sea and region of Budjak. Also, climatic conditions drove some nomads

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[30] McNeill, *Europe's Steppe Frontier, 1500-1800*, 5-7.

[31] Numbers that Khodarkovsky provided give us an idea about how sedentary societies suffered from the nomadic tribes' raids. He states that Crimeans seized 50.000 Lithuanian captives during their campaign in 1501, as the Nogays released 15.000 Russian captives in 1618. According to some estimates, 150.000 to 200.000 Russians were captured during the first half the seventeen century. Interestingly, Khodarkovsky entitles the chapter of his book where he depicts the sociology of the steppe as "The Sociology of the Frontier, or Why Peace Was Impossible." Khodarkovsky, *Russia's Steppe Frontier: the Making of a Colonial Empire, 1500-1800*, 7-45.

[32] Çelebi, *Evliyâ Çelebi Seyahatnâmesi V. Kitap*, 36b.

to Akkirman and environs. Documents dating to 1560s show that due to famine in Crimean region, a considerable population of Tatar and Nogay tribes accumulated around Kili, Akkirman, Bender and Cankirman. An order issued in 1564 was about many Nogay and Tatar tribes who moved to Dobruca and Akkirman, 3000 of them crossed the Southern Bug River and involved in robbery around Akkirman and Özi. Therefore, Crimean Khan Devlet Giray was ordered to force them to migrate to their former homelands. Due to these commands, Crimean khans sometimes relocated Nogays and Tatars though they turned back to the region. Despite their cause of mess and the orders of the Ottoman center, the existence of these nomadic tribes suited the Porte's book in some aspects. They were functional to set a buffer against ever-mounting Russian, Polish and Cossack threats, also to bring and keep Moldavian Voivodeship under control, ensuring northern borders' security and trade routes. Therefore, towards 1570s, the Ottoman center concentrated the sparsely populated zones of Akkirman and other regions with Nogay and Tatar peoples.[33]

The steppe soil fertilized by the Dniester and Dnieper was quite suitable for herds to pasture. As mentioned above, it was a vital issue for the Ottoman center to ensure that the flow of goods, particularly that of animals, was sustained. This relentless as well as growing demand for sheep and cattle was attractive for herd owners such that the herds were driven to Polish lands. These border violations were not welcomed by the Polish government; thus the Ottoman center sent an order to Crimean khan to keep grazing herds under control in 1564.[34] This indeed was not the sole edict, there were several of them in various dates throughout the second half of the sixteenth and first half of the seventeenth century, concerning Cossack threat in this area and charging Crimean khans to defend the Black Sea and Crimea as well as letters to the Polish king about Tatars and Cossacks.[35] On the other hand, the Cossacks were considerably hospitable to these unprecedented gifts of herds to plunder, hence they consistently attacked Tatar herds crossing the borders in addition to their routine raids within the Ottoman territory. Therefore, there have never been certain borders in this frontline. Tatars also endlessly kept attacking over the front, because it was a line of business among the indigenous people to capture goods and slaves and sell them in the market.

While the Crimean and Nogay Tatars under auspices of the Ottomans consistently assaulting through the region, the Cossacks encouraged by the Polish Kingdom as well as Tsardom of Russia were raiding Akkirman's lands starting from Czar Ivan

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[33]Emecen, *Osmanlı Klasik Çağında Siyaset*, 264-65.

[34]İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600*, 295.

[35]Feridun Ahmed Bey, *Münşeâtü's-Selâtîn 2* (İstanbul: Dârü't-Tıbâati'l-Âmire, 1275), 144-45, 535, 37, 44.

IV (r. 1533-84).[36] Halenko narrates that the early Cossack land raids concentrated on Ottoman fortresses of Özi, Akkirman and Bender as well as the Principality of Moldavia.[37] They stole cattle and horses from nomadic shepherds and commandeered cattle and horses from Ottoman subjects in Akkirman.[38] Cossacks' menace was a serious problem for the Dniester basin; they carried out plunders whenever possible.[39] Starting from 1574 to 1634, massive attacks of Zaporozhian and Don Cossacks disconcerted Rumelia coasts and that of Anatolia, even the Bosphorus.[40] The first records' coincidence with repair and strengthening of Akkirman fortress in 1570s was thereby not surprising.[41] Similarly an imperial command in May 1592 sent to the governor of Akkirman to cooperate in all possible conditions with the voivode of Moldavia against Cossacks' plunders.[42] The raids were mutual, so was the damage. In 1621, after the Battle of Khotin, a peace treaty was signed ensuring that both the Ottomans and Poland-Lithuania Commonwealth would prevent trans-frontier raids.

Victor Ostapchuk depicts this frontier area "a transition zone rather than a full-fledged part of the steppe frontier," and compares it with triplex confinium, where the Habsburg, Venetian and the Ottoman Empires faced in today's Croatia lands. Ostapchuk describes this area as multiplex confinium, in which the Ottomans came across with Poland-Lithuania, Ukrainian Cossacks backed by Russians and Mol-

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[36] Serhii Plokhy, *The Cossacks and Religion in Early Modern Ukraine* (New York: Oxford University Press, 2001), 26-28.

[37] According to Halenko, the term of Cossack was used as the name for raiders around Akkirman and Azak fortresses. Another name for the Cossacks, Zaporozhians -men from beyond the cataracts- derives from this geographical reference point. The Ukranian Cossacks took advantage of weak governmental control in the border zones and formed military bands plundering the pastoralists and merchants. Still, they were not pirates, but had some elements of state organization. Don Cossacks (Ten Kazakları), on the other hand, were active around in the basins of Don river, Azak fortress and Black and Azov seas. Oleksandr Halenko, "Cossacks," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009).

[38] Though from the mid-seventeenth century onwards the Ottomans and Cossacks developed some alliances against growing Muscovite threat in the steppe. Halenko, "Cossacks." Also for detailed research on Cossacks and their activities see: Plokhy, *The Cossacks and Religion in Early Modern Ukraine*.

[39] Omeljan Pritsak particularly mentions the raids of the Zaporozhian Cossacks on Akkirman conducted at 1594, 1601 and 1604, together with 1602, 1606 Kili, 1609, 1613 Danube Delta, 1614 Caffa, 1614 Sinop, 1614, 1625 Trabzon and 1615, 1620, 1624 İstanbul. Omeljan Pritsak, "İlk Türk-Ukrayna İttifakı (1648)," *İlmî Araştırmalar* 7 (1999): 258.

[40] "It is believed that Cossack naval raids started in the 1570s. These raids were focused on Rumelia (the European parts of the Ottoman Empire) and the Crimea. The first raid across the Black Sea (against Sinop and Trabzon) is reliably dated to 1614. Raids on the southern shores of the Black Sea reached their zenith in the 1620s. These raids involved up to 300 longboats called chaikas and reached the outskirts of Istanbul." Halenko, "Cossacks."

[41] Victor Ostapchuk and Svitlana Bilyayeva, "The Ottoman Northern Black Sea Frontier at Akkerman: The View from a Historical and Archaeological Project," in *The Frontiers of the Ottoman World*, ed. Andrew Peacock (Oxford and New York: British Institute at Ankara and Oxford University Press, 2009), 151.

[42] A.DVNSMHM.d., 6/25, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 13. See for the transcription of the command: Osman Okumuş, "Hicri 1000-1001/1592-1593 Tarihli 6 Numaralı Mühimme Zeyli Defteri (Özet-İnceleme-Metin)" (MA Thesis, Marmara Universitesi 2013), 14.

davia met with the Crimean and Budjakian Tatars, the Budjak Horde confronted the Crimean Khanate.[43] The Catholic oppression of Poland-Lithuania on the Orthodox Cossacks resulted in more Cossacks' migrating Russia and carrying out raids on behalf of it. Until it fought against the Ottomans themselves in the following century, Russians' umbrella for Cossacks to conduct raids maintained.[44] Continuous raids in the borderline also served the Crimean Khanate's interests since they were strengthening their existence and keeping Polish and Russian territories under pressure.[45]

We can classify 65 imperial commands sent to the officials of Akkirman in the years between 1590-95 and 1603-07 in six groups: Commands ordering -mostly- governors and -occasionally- other officials (1) to prevent those who oppressed the subjects (2) to take measures to Cossack raids (3) to not capture and enslave the subjects of Moldavia and Wallachia (4) to capture someone and deliver him to the center (5) to cooperate with nearby governors against raids, assist them militarily and supervise small galleys (6) to deliver sheep to Istanbul. We know from other sources that towards the 1590s, the Cossacks increased their raids. Also, the battle against the Habsburgs erupted in 1593 brought about uprising of Moldavian and Wallachian principalities in 1594. Thus, commands decreed in 1590-95 are sensible. After 1601, when the Ottoman control over the tributary states reestablished, we could assume that the area was stabilized. However, it was particularly during these years that commands issuing that Tatars shall not seize and enslave Moldavian and Wallachian subjects. In addition to them, there were others such as about a corrupted trustee of an endowment in 1591 and supply of timber in various years. The overall look to these commands reveals the frontier nature of Akkirman.

2.5 Provincial Administration

After its capture in 1484, Akkirman was included within the subprovince (*sancak*) of Silistre which was a part of the province of Rumeli. The Ottoman dominance

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[43] Bilyayeva, "The Ottoman Northern Black Sea Frontier at Akkerman: The View from a Historical and Archaeological Project," 142. This dynamic struggle between several polities concentrated on the steppe of Black Sea and Eastern Europe even inspired a video game released in 2011 named Mount & Blade: With Fire & Sword, where Crimean Khanate, Cossack Hetmanate, Polish Commonwealth, Muscovite Tsardom and the Kingdom of Sweden sought agreements with each other. Interestingly, the southern of the map bordered with Akkirman.

[44] M. Murat Öntuğ, "Özü İle İlgili XVII. Yüzyıl Mühimme Hükümleri ve Kalesi" (M.A. thesis, Balıkesir Üniversitesi Sosyal Bilimler Enstitüsü, 1995), 14-17.

[45] İnalcık, *An Economic and Social History of the Ottoman Empire Volume 1: 1300-1600*, 293-95.

spread towards Bender and Budjak with the Moldavian campaign in 1538 which brought about the enlargement of Akkirman and Kili's hinterland. The Ottomans reorganized the area in the mid-sixteenth century, in order to maintain the security of the frontier zone as well as trade routes. Consequently, starting from these years, Akkirman and Kili started to be conceived as separate administrative zones. Judgeships (*kazâ*s) of Bender and Özi joined Akkirman. In 1570 cadastral survey for the first time, the subprovince of Silistre was named as the subprovince of Silistre and Akkirman.[46] Within a decade, Akkirman's administrative organization was fully separated. A decree in 1584 testifies this fact that Özi, Akkirman, Bender and Kili had been a part of the sanjak of Silistre and then became separate entities. In these years, the province of Akkirman became subjected to the governor-general of Özi. Once Özi transformed into a province (*eyâlet*) during the early 1600s, it began to include the subprovince of Akkirman as its part.[47] As for its judicial organization, the judge of Akkirman was paid 80 aspers in 1521 and 1522.[48] The salary fell to 70 aspers roughly in the 1540s and then 60 aspers in 1562.[49] Kuru states that it rose to 100 aspers after the mid-sixteenth century, and then 150 aspers in 1667-68.[50] A qadi appointment in 1609 to Akkirman shows that it became 150 aspers already in the early seventeenth century.[51] It was in this context that in 1592, Ali Akkirmani turned as professor and mufti to his hometown, Akkirman, a city located at the mouth of Dniester, shining out with its regional commercial role, where the Eurasian steppe begins, where more and more nomads settled for the past twenty years and where reciprocal raids had become a part of daily life. Akkirmani's earlier formative years before his arrival in Akkirman is important to place him on this scene.

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[46] Emecen, *Osmanlı Klasik Çağında Siyaset*, 262; Bilyayeva, "The Ottoman Northern Black Sea Frontier at Akkerman: The View from a Historical and Archaeological Project," 139.

[47] There are various opinions related to when Özi became an eyalet. According to common information, its status was risen from sanjak to eyalet in 1593. Look for example: A. Decei, "A Kirmān," in *Encyclopaedia of Islam, Second Edition*, ed. Th. Bianquis P. Bearman, C.E. Bosworth, E. van Donzel, W.P. Heinrichs (Brill, 1979); Temel Öztürk, "Özü," in *TDV İslâm Ansiklopedisi* (2021). Orhan Kılıç, nonetheless, makes a detailed analysis of the documents and concludes that the most possible date for this change is 1612/1613. Orhan Kılıç, "Batı Karadeniz Kıyısında Bir Osmanlı Eyaleti: Özi/Silistre (İdari Taksimat ve Yönetim)," *Karadeniz İncelemeleri Dergisi* 12, no. 23 (2017): 33-38.

[48] Ercan Alan, "Yeni Bir Belgeye Göre XVI. Yüzyilin İlk Yarısında Rumeli Sancakları, Kazaları ve Kadılar (According to a New Document the First Half Of 16th Century Sanjaks and Towns of Rumelia and Kadıs)," *The Journal of Academic Social Science* 33 (November 2016): 351.

[49] Levent Kuru, "Kanuni Sultan Süleyman Döneminde Rumeli Kadılıkları (XVI. Yüzyılın İlk Yarısı) (Rumelia Kadıships During The Reign Of Sultan Suleiman The Magnificent (First Half Of The XVI. Century))," *International Periodical for History and Social Research*, no. 21 (2019): 257, 66.

[50] Levent Kuru, "XVI. Yüzyılın İkinci Yarısında Rumeli Kadılıkları (Rumelia Kadıships in the Second Half of the 16th Century)," *Journal of Balkan Research Institute* 8, no. 2 (2019): 267, 81.

[51] 10, Rumeli Kazaskerliği Rûznâmçeleri, İslâm Araştırmaları Merkezi, 5.

2.6 Ali Akkirmani: A Provincial Mufti of His Hometown

Nevîzâde Atâyî (d. 1635), in his *Hadâiku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik*, an addendum (*zeyl*) for *Hadâiku'ş-Şakâ'ik*, provides information about the life of Ali Akkirmani. Later biographical sources such as *Sicill-i Osmânî* and *Hediyyetü'l-Ârifin* also gives Akkirmani's biography, however it is very likely that they summarized the information in *Hadâ'iku'l-Hakâ'ik*.[52]

Ali Akkirmani was born in Akkirman, probably in mid-sixteenth century. We do not know when he arrived in Istanbul just as we do not have a certain date for his birth. Atâyî tells that he took lessons from various scholars and finally became a student of Ali Efendi, a relative of Çivizâde.[53] He afterwards acquired the status of novice (*mülâzemet*) after serving as a teaching assistant (*muîd*) in Valide Sultan Madrasa. Akkirmani thereby became a scholar-bureaucrat and his status of novice from Valide Sultan Madrasa would open him the way up in the hierarchy. He started his career as a professor (*müderris*) and reached up to the grade of forty (*kırklı*). Yet when he was to advance to the grade of fifty (*ellili*) in 1592, he chose to be appointed as professor to el-Hâc İbrahim Madrasa with 50 aspers together with the muftiship of Akkirman. Ali Akkirmani held these positions until his death in 1618.[54]

Atâyî describes Akkirmani as "famous with his merits, trained in various fields." As for his scholarship, he states that his fatwas were "strong and authoritative (*metîn ve muhkem*) and that his short scholarly epistles (*resâil*) and scholarly notes on margins of books (*talîkât*) were acknowledged by the community [of the scholars]. According to Atâyî, Akkirmani proved his mastery and capability in "the Arabic sciences and literary disciplines (*ulûm-i Arabiyye ve fünûn-i edebiyye*)." Also, he mentions that some of his fatwas were included in the collections. He includes Akkirmani's famous fatwa related to prohibition of cannabis (*benc*) in particular. Atâyî tells that he saw Akkirmani's epistles (*risâle*) on five fields dedicated to the Crimean Khan Gâzî

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[52] Mehmed Süreyya, *Sicill-i Osmânî*, vol. 1, ed. Nuri Akbayar and Seyit Ali Kahraman (İstanbul: Tarih Vakfı Yurt Yayınları, 1996), 251; Bağdatlı İsmail Paşa, *Hediyyetü'l-Ârifîn Esmâ'ü'l-Müellifîn ve Âsâru'l-Musannifîn*, vol. 1, ed. Kilisli Rıfat Bilge, İbnülemin Mahmûd Kemal İnal, Avni Aktuç (Ankara: Milli Eğitim Bakanlığı, 1951), 753.

[53] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, vol. 2, ed. Suat Donuk (İstanbul: Türkiye Yazma Eserler Kurumu, 2017), 1603.

[54] Nevîzade Atâyî gives the date of his death as 1030/1621 (*biñ otuz senesi ilālinde mānend-i tāk ḥāṣıl olduġı maḥalde mütevārī-i āk oldı*), on the one hand, on the other, Balıkesir copy of *Fetâvâ-yı Akkirmani* dates it to 16 Zilhicce 1028 corresponding to November 24th, 1618. This copy is the only one that was copied in Akkirman. Because of this as well as that it gives more detailed date than the former, I relied on it. Ali Akkirmani, *Fetâvâ-yı Akkirmani*, 0954, Ia, Balıkesir İl Halk Kütüphanesi, 0954.

Giray Han (r. 1588-1607)-we could not locate this piece of scholarship.[55]

We have a copy of Akkirmani's testament (*vasiyetnâme*) in a compilation. Almost the entire testament is about death rituals in detail: how his body to be washed, enshrouded and buried, his mortcloth being a piece of the cover of Kabah. He also specifies how his death to be announced and funeral prayer to be performed, the place of his grave, his gravestone and mulberry tree to be planted on his grave. In addition, he tells his will about how many days Quran to be recited at his grave and the poor people to be fed and given alms. He also requests the *iskât* and *devr* (expiation for missed prayers) to be performed after his death. We learn about his life that he had a daughter named Hâmide and she had already passed away when the testament was written, for it was Akkirmani's will to be buried alongside to his daughter Hâmide if he was destined to die in Akkirman.[56]

What can be understood from this relatively short biography of an Ottoman scholar-bureaucrat? Akkirmani's status of novice (*mülâzemet*) from Valide Sultan Madrasa and relationship with Ali Efendi provide us with some information to make interpretations about both his scholarship and career.

Atâyî mentions a scholar named Bitli Ali Efendi (d. 1592), the relative of Çivizâde Mehmed Efendi (d. 1587), who was the chief mufti between 1582-1587.[57] Ali Efendi was the nephew of Çivizâde and was appointed as professor to Şehzâde Madrasa in Istanbul in 1580, a few months later, to Valide Sultan Madrasa in 1581.[58] Valide Sultan Madrasa had been constructed very recently and the first professor had been assigned in 1579.[59] Bitli Ali Efendi was the third professor of the madrasa, after Dökmecizâde Mehmed Efendi and Şemseddin Ahmed Efendi. Bitli Ali Efendi would

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[55] "Mevlānā-yı mezbūr [388a] feżā'il-i celīle ile meşhūr, envā'-ı 'ulūm ile mu'allem, fetvāları metīn ü muḥkem idi. Resā'il ü ta'līātı mabul-i4 cumhūr ve ba'ż-ı fetāvāsı mecmū'alarda mesṭūr, bā-uṣūṣ taḥrīm-i bencde olan fetvāsı müte'ārif ü meşhūrdur. Bu ḥaīr, "Ġāzī Girāy ān -ı Cengīzī" nāmı ile muṣaddar beş fenden risālesin gördüm. 'Ulūm-ı 'Arabiyye ve fünūn-ı edebiyyede mahāretin ve keret-i ıṭṭılā' ile müṭāla'ada diatin ibāt ü ihār ve zūr-pence-i itidārın āşikār itmiş idi." Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 2, 1603.

[56] *Vasiyetname*, Esad Efendi, 1456, 15a-15b, Süleymaniye Kütüphanesi. Nilüfer Ateş makes an analysis basing on several testaments belonged to the known Ottoman figures from different centuries such as Molla Hüsrev (d.1480), Kemalpaşazade(d.1534), Akkirmani(d.1618), Gülnûş Emetullâh Sultan(d.1715), Mehmed Emin Tokâdî(d.1745), Fuad Paşa(d.1869) etc. We learn from her work that Akkirmani allocated more than 1400 aspers in total for his death rituals. Nilüfer Ateş, "Kültür Tarihi Bakımından Osmanlı Vasiyetnâmeleri" (MA Thesis, Uludağ Üniversitesi, 2008), 120.

[57] Mehmet İpşirli, "Çivizâde Mehmed Efendi," in *TDV İslâm Ansiklopedisi* (2021). https://islamansiklopedisi.org.tr/civizade-mehmed-efendi.

[58] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, vol. 1, ed. Suat Donuk (İstanbul: Türkiye Yazma Eserler Kurumu, 2017), 926-27.

[59] Necipoğlu propounds that Valide Sultan Complex was constructed in three stages, 1571-74, 1574-77/78 and 1584-86. Even though the construction may have continued later, its first professor assigned in 1579. Gülru Necipoğlu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (London: Reaktion Books, 2005), 284-88.

become the judge of Istanbul between 1590-1591.[60] This is the same Ali Efendi, that Atâyî mentioned as the scholar whom Ali Akkirmani became in service and assistant (*muîd*). Basing on this, Ali Akkirmani must have arrived in Istanbul at the earliest in 1579 and acquired the status of novice from Ali Efendi at the latest in 1584.[61] The professors used to choose their teaching assistants from their most brilliant students, which indicates how capable and brilliant Ali Akkirmani was.[62] In this sense, we may say that Atâyî's depiction of Akkirmani lays some indications about his proficiency and capability in scholarship.[63]

Valide Sultan Madrasa had been at the level of sixty (*altmışlı*) until it was included among Süleymaniye madrasas in 1600 with the title of *Hâmise-i Süleymaniye*.[64] For some reason, Akkirmani broke his way short and confined himself to professorship at the grade of fifty (*ellili*) with muftiship of Akkirman. We do not know why he did not continue his way up to the top of the scholarly bureaucracy; it might have been an economic, domestic or personal decision. As a matter of fact, as will be indicated below, the decisive factor in one's career was whether he started his career in interior (*içil*) or exterior (*kenar*) posts. Akkirmani's status of novice from Valide Sultan Madrasa and his possible network might have increased his chance to begin his career in an interior post, however, we still have no information. He might have started his career in an exterior post. Even, his intention from the beginning could be to end his career in Akkirman. In all possibilities, when Ali Akkirmani arrived in Akkirman as a professor and mufti, he probably appeared having a distinctive profile and high status in the imperial center.

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[60] Cahit Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 2. Cilt* (İstanbul: İFAV Yayınları, 2021), 748-52

[61] Coşkun's interpretation that Akkirmani must have had the chance to take lessons from Sunullah Efendi and Yahya Efendi, who were professors at that time in Atik Valide Medresesi and later to be chief muftis, should be mistaken. Because both future-chief muftis were assigned to the position much later, in 1587 and 1595 respectively. See: Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 2. Cilt*, 750, 52. Coşkun, "Akkirmânî Ali Efendi (Ö. 1028/1618)'nin Nikah ve Talak ile İlgili Fetvaları," 8-9.

[62] Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 53.

[63] Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 2, 1603.

[64] Cahit Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt* (İstanbul: İFAV Yayınları, 2021), 74.

2.7 The Office of Muftiship in Akkirman at the Late Sixteenth Century

At the late sixteenth century, in Rumelia, muftiship was carried out by the professors of the most prestigious madrasas.[65] Scholar-bureaucrats who held both professorship (*tedrîs*) and muftiship (*iftâ*), were rotating in the prominent madrasas of Saray (Sarajevo), Akkirman, Baba, Üsküp (Skopje), Niğbolu (Nikopol), where they could hold both offices together. Being one of them, el-Hâc İbrahim Madrasa in Akkirman was providing with daily 20 or 25 aspers salary to its professors.
footnoteBeyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 199, 203. Cahit Baltacı, on the other hand, guesses that because it includes muftiship, the grade of el-Hâc İbrahim Madrasa must have been at least forty (*kırklı*). He also states that some documents support his claim. Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt*, 443. If one was appointed both professor of el-Hâc İbrahim Madrasa and muftiship of Akkirman, which was the usual practice, the salary would become 50 or 60 aspers.

In 1581, Alâeddin Efendi was in charge as professor-mufti in Akkirman with daily 50 aspers. During the same year, another Alâeddin Efendi from İbrahim Paşa Madrasa in Hezargrad, took the office with the identical salary. Hayreddin Efendi was in the position in 1587. From 1587 to 1592, Ebussuud Efendi (only the professorship), Alâeddin Efendi, Muhyiddin Efendi, Siyâmî Efendi and Rıdvan Efendi appointed professor-muftis in the identical madrasa respectively. Only Alâeddin Efendi and Muhyiddin Efendi gained 60 aspers per day, the salary for the rest was 50 aspers.[66]

From 1581 to 1592, eight different professor-muftis carried out the professorship of el-Hâc İbrahim Madrasa while seven of them were also muftis of Akkirman, excluding Ebussuud Efendi. It is expectable to see numerous scholar-bureaucrats rotating in the same offices within a decade. The interesting point comes to light with Ali Akkirmani's appointment: There was an overwhelmingly long stable period with the arrival of Ali Akkirmani in both posts. Akkirmani took them over in 1000/1592. After thirty years, in 1028/1618, death separated Akkirmani from professorship *tedrîs* and muftiship (*iftâ*) of Akkirman. This extremely large discrepancy between the incumbencies of previous professor-muftis and that of Akkirmani is indeed a peculiar characteristic to understand characteristics of his muftiship.

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[65] Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 255.

[66] For appointments of Muhyiddin Efendi, Alaeddin Efendi and Siyami Efendi see: 4, Rumeli Kazaskerliği Rûznâmçeleri, İslâm Araştırmaları Merkezi, 15; 5, Rumeli Kazaskerliği Rûznâmçeleri, İslâm Araştırmaları Merkezi, 97. For additional data see: Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt*, 442-44.

It is possible that Akkirmani himself might have asked to stay in the post. However, this assumption would be insufficient to explain occupying thirty years in a post which was included in the hierarchical rotation. Similarly, Akkirmani distinguished from his predecessors to be a native of the city. It seems that they were regular muftis rotating between the posts of the area. It would be very precious to compare the backgrounds of previous muftis and that of Akkirmani, nevertheless, we do not have enough information more than what was provided above. So, could Ali Akkirmani be pretty compatible with the ideals of the Ottoman center in the area? Or was it indigenous people of Akkirman who asked the center to keep the native mufti in the office, since he was responding their questions and needs or formed alliance with them against other government officers?

I will seek some answers to these questions. In her dissertation "On the Margin of Text, on the Margin of Empire: Geography, Identity and Fatwa-Text in Ottoman Bosnia," which is on the institution of muftiship in Bosnia, Selma Zecevic puts forward that there was a considerable difference between the origins of muftis who were incumbent in Bosnia before and after 1600. Based on the biographical dictionaries of muftis of Ottoman Sarajevo, she concludes that while there were not any muftis who were educated in and native to Bosnia from 1538 to 1605, the picture changed after 1605. From this date onwards, all muftis were appointed from Bosnian origin in life-long tenures.[67]

This circumstance highly resembles Ali Akkirmani's case in terms of his profile, life-long incumbency and coincides interestingly with regards to the periods. Firstly, Akkirmani was a native to the city as it was the trend in Bosnia. What is missing for Akkirman is that Ali Akkirmani was not educated in his hometown. However, this can be explained with Akkirman's inadequate conditions to be self-sufficient to educate its own muftis. Due to this, the Ottoman center might have found the solution in assigning a native scholar-bureaucrat trained in Istanbul. Secondly, Akkirmani was appointed mufti-professor in Akkirman in 1592 as the transformation of Bosnian muftiship occurred roughly during the same years. We do not have a statement that Akkirmani's appointment was a life-long tenure like Bosnian muftis, nevertheless, he still held the post until his death. Interestingly, one of the former mufti-professors of Akkirman also assigned for life-long. When Alâeddin Efendi, who was entrusted both muftiship (*iftâ*) and professorship (*tedrîs*) of Akkirman in 1588 with lifelong incumbency (*alâ vechi't-tebîd*), was taken from Akkirman and assigned to the village of Baba, he objected claiming that he possessed a sultanic

[67] Selma Zecevic, "On the Margin of Text, on the Margin of Empire: Geography, Identity and Fatwa-Text in Ottoman Bosnia" (PhD Columbia University, 2007), 124-54.

order (*ahidnâme-i hümâyûn*) ensuring his life-long tenure.[68] Even though muftis after him did not assert a similar claim, it was four years later that another mufti-professor, Ali Akkirmani, ascended to the position for lifetime.

There is no doubt that this assertion needs much further research. We at least need to know the formation of the muftiship of Akkirman after the death of Akkirmani. Still, considering Zecevic's assertion "it is quite possible that Ottoman Bosnia was not exceptional" in terms of "the transformation of muftiship into a life-long appointment."[69] An imperial decree (*fermân*) in 1011/1602-1603 also should be considered declaring that qadis were not allowed to be appointed for life-long terms, yet those who were in the path of madrasa for years, being among the scholars and competent can be assigned for life-long tenure.[70] This decree and Akkirmani's case encourages us to ask whether this can be an imperial trend throughout the Ottoman Rumelia?

2.8 Conclusion

When Ali Akkirmani turned his hometown in 1592, he must have encountered more or less the same city that he had left probably in 1570s. In 1570s, Akkirman that he knew in his childhood was already the city that had transformed into a port city. Though, in these years, as well as in 1590s, the governor of Akkirman was still being entrusted military missions together with governors of the nearby provinces. The city that he knew was already hosting semi-nomad Tatars and he had been familiar with enemy raids, too. However, when he returned, he must have felt that the density and influence of the raids became more profound. When he took his step from the gate of the castle of Akkirman, some people must have recognized him, the boy who had left the city for education twenty years ago. Nevertheless, the boy that they remembered was now different: He became an adult in his thirties or forties, a scholar-bureaucrat possessing the imperial and juristic authority and he became the mufti of the province. He was not only different from his childhood, but also distinguished from his predecessors in muftiship. Most of them were not trained in the imperial center. Also, they were not from this city. They usually started their mufti position and left after a year.

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[68] 4, Rumeli Kazaskerliği Rûznâmçeleri, İslâm Araştırmaları Merkezi: 27.

[69] Zecevic, "On the Margin of Text, on the Margin of Empire: Geography, Identity and Fatwa-Text in Ottoman Bosnia," 336.

[70] Bey, *Münşeâtü's-Selâtîn 2*, 226.

3. INTRODUCING *FETÂVÂ-YI AKKIRMANI*

3.1 Scholarship on *Fetâvâ-yı Akkirmani*

Ali Akkirmani and his fatwa collection, *Fetâvâ-yı Akkirmani*, seems to be neglected in the literature. There is not any considerable work concerning Akkirmani's role as a mufti contextualizing his fatwas, although his juristic opinions were discussed in a few works. In her MA thesis, Elif Coşkun transcribed the chapters of *Kitâbu'n-Nikâh* and *Kitâbu't-Talâk* of *Fetâvâ-yı Akkirmani* and briefly analyzed Akkirmani's way of thinking within the Islamic juristic tradition.[1] In another MA thesis on the rulings of herbs in Hanafi fiqh literature, Taha Yasin Tan examined Akkirmani's fatwa on cannabis (*benc*) in a relatively detailed way.[2] Hamdi Kaşif Okur used *Fetâvâ-yı Akkirmani* as one of the sources for his article on the family structure before the Tanzimat era.[3] Except for the general survey of Cahit Baltacı on madrasas in which Ali Akkirmani's name was referred merely once as one of the muftis of el-Hâc İbrahim Madrasa[4] and an overall article concerning a survey of fatwa compilations of the Ottoman scholars by Şükrü Özen where information about *Fetâvâ-yı Akkirmani*'s copies were given; no other article, book or encyclopedia mentions Ali Akkirmani and his *Fetâvâ*.

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[1]Coşkun, "Akkirmânî Ali Efendi (Ö. 1028/1618)'nin Nikah ve Talak ile İlgili Fetvaları."

[2]Taha Yasin Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme" (MA Thesis, Marmara University, 2020), 166-69.

[3]Kaşif Hamdi Okur, "Fetva Mecmualarına Göre Tanzimat Öncesi Dönem Aile Yapısı Hakkında Bazı Tespitler," *Journal of Divinity Faculty of Hitit University* 19, no. 2 (2020).

[4]Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt*, 442-44.

3.2 The Formation and Copies of Fetâvâ-yı Akkirmani

Derviş Muhammed b. Hasan el-İstanbuli was in his forties when he was on his way to Akkirman. His urgent need for money due to his poverty and debts led to his appointment as deputy judge (*niyâb[et] hizmetiyle*) in 1040/1630-31. After his arrival, he learned Ali Akkirmani, who had passed away about ten years ago and his fatwas. Hasan el-İstanbuli must have heard his reputation before, yet his influence was greater in Akkirman. However, his fatwas "like solid ropes for the ones asking for fatwa" as Hasan el-İstanbuli described, were scattered at the hands of local people. He collected Ali Akkirmani's fatwas from the city-dwellers and organized them carefully, placing them in separate chapters in according to their topics.[5] Muhammed b. Hasan el-İstanbuli's collection and edition of *Fetâvâ-yı Akkirmani* finished around 1630s, its copies were produced and spread throughout the empire in decades and centuries.

In Atâyî's *Hadâ'iku'l-Hadâ'ik*, which was completed in 1634,[6] possibly just after Muhammed b. Hasan el-İstanbuli completed the collection, there is no direct mention of *Fetâvâ-yı Akkirmani* as we can recall from the previous chapter. However, it is possible that his reference to "recorded fatwas in collections (*ba'ż-ı fetāvāsı mecmū'alarda meṣṭūr*)"[7] probably refers to Muhammed b. Hasan's compilation of *Fetâvâ-yı Akkirmani*. There are 25 available copies of *Fetâvâ-yı Akkirmani* or *Vâkı'ât-ı Akkirmani* located in various cities of Turkey (21), Cairo (3) and Sofia (1) today.

Among the copies I examined, only three have the place of copying: Hafid Efendi 98 (copied in 1053/1643) and Veliyyüddin Efendi 1471 (copied in 1050/1640) were copied in İstanbul, while the copy found in Balıkesir İl Halk Kütüphanesi was produced in Akkirman (copied in 1118/1706). The majority of the copies include table of contents (*fihrist*) and introduction (*mukaddime*).[8] Furthermore, in several copies, related fatwas of other muftis such as Ebussuud and İbrahim Halebi were written on the margins of the pages.[9] Hekimoğlu 405 includes the entire collection of *Fetâvâ-yı*

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[5] Ali Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405, Süleymaniye Yazma Eserler Kütüphanesi.

[6] Halûk İpekten, "ATÂÎ, Nev'îzâde," in *TDV İslâm Ansiklopedisi* (2021).

[7] Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 2, 1603.

[8] A few of them which lack table of contents are Hekimoğlu 405, Zeytinoğlu, DIB 559; and a few lack such as Hafid Efendi 98, DIB 559, DIB 580, Millet 4392.

[9] Some of them can be mentioned as: Hafid Efendi 98, HO362, Zeytinoğlu, DIB 580.

*Üsküb*i, thereby titled as *Fetâvâ-yı Akkirmani maa Üsküb*i.[10] Similarly, several of them contains Atâyî's biography of Akkirmani.[11] In some copies, chief muftis' fatwas such as Kemâlpaşazâde, Ebussuud, Bahai Mehmed Efendi etc. were also recorded.[12] In the beginning of Veliyyüddin Efendi 1470, a list of authoritative books in Hanafi jurisprudence was provided.[13]

Based on the analysis of the 21 copies found in Turkey, I propose that there are three versions of *Fetâvâ-yı Akkirmani*. I classify them as versions of A, B and C in terms of the organization of the collection. In general, the number of fatwas in all versions is roughly 2300-2400. They differ from each other as regards the order of fatwas. For instance, in all A copies, the Chapter of Prayer (*Kitâbu's-Salât*) starts with "*Bir mescidde mihrâbın iki cânibine...*" while it starts with "*Zeyd sabah namâzın kılmak için...*" in version B copies and with "*Yatsı namâzının vakti ne zamândır?*" in version C copies. These three fatwas are found in all versions but in different pages. Similarly, as for the Chapter of Endowment (*Kitâbu'l-Vakf*), all A version copies begins with "*Bir vakıf mütevellîsi olan...*", whereas the copies of the versions of B and C starts with "*İmâm ve hatîb olan...*" and "*Bir beldede Hind mahallesinin...*" respectively. Another simple reference point to determine which version is which is introductions. Any three copies of version C do not have the introduction part. Introductions of A and B copies, however, ends with different prayer sentences, "*Ve lillâhi't-tevfîk ve'l-hidâye fi'l-bidâyeti ve'n-nihâye*" and "*Ve lillâhi't-tevfîk ve't-tüklân*" respectively. Furthermore, version A and version B are common in the organization of fatwas in 49 *kitâb*s (chapters) in general. Yet version C adds a few new sections such as the Chapter of Pilgrimage (*Kitâbu'l-Hacc*), the Chapter of Sacrifice (*Kitâbu'l-Udhıye*) and so forth.

Unfortunately, the autograph of *Fetâvâ-yı Akkirmani* has not been found. The earliest copy, Veliyyüddin Efendi 1971 (VE1971) dates to 17 Cemâziyelâhir 1050 / 4th October 1640. This copy, at the same time, is most probably the earliest example of the version A. There are five copies of the version A from 1640 to 1647. Then, we see three copies of it in 1668, 1688 and 1740s respectively. Version B initially appears in 1656, after five copies of A had already been copied. After B got on the stage, it became the dominant copy of *Fetâvâ-yı Akkirmani*. From 1650 to

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[10] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 1a.

[11] Such as Hafid Efendi 98, Veliyyüddin Efendi 1470, 1471, Millet 4392, İzmir 420.

[12] Such as Hafid Efendi, HO362, Veliyyüddin Efendi 1470. Hafid 98 also includes many interesting fatwas before *Fetâvâ-yı Akkirmani* such as "Fatwa about the qanun (*Kânuna dâir fetvâdır*)" "An important issue about holy war (*Mesele-i mühimme der hakk-ı cihâd*)" "An important issue about smoking (*Mesele-i mühimme der hakk-ı duhân*)."

[13] Ali Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470, Ia, Beyazıt Yazma Eser Kütüphanesi.

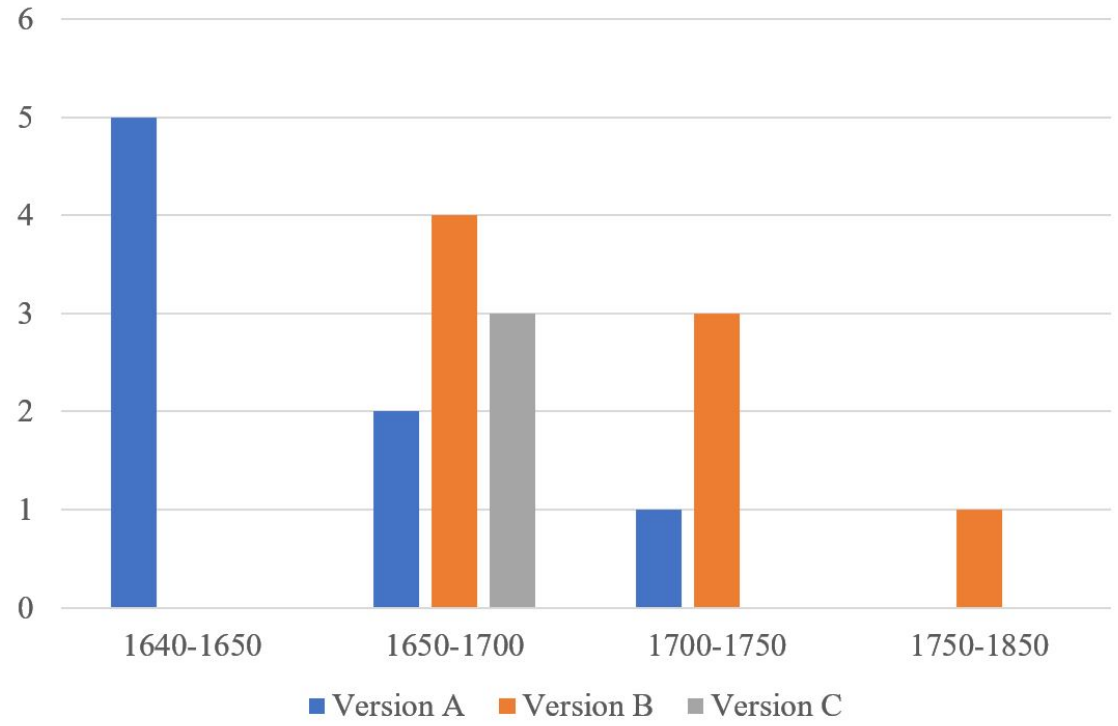

Figure 3.1 The Periodical Distribution of the Versions of *Fetâvâ-yı Akkirmani*

1750, there are seven copies of B while the number of version A remained at three. After 1750, we have only one copy, a sample of B, dating 1849. Other than these two versions, we have version C, *Vâkıât-ı Akkirmani* copies, dating 1673, 1689 and 1694.[14] Besides, there are five copies as well, which I was not able to examine and classify due to access problem or missing pages.

After it has been collected in a single volume, *Fetâvâ-yı Akkirmani*'s first copies, neglecting its variations, appear in 1640. During a decade, at least five new were produced. From 1650 till the end of the century, copying of *Fetâvâ-yı Akkirmani* reaches its pinnacle with nine new copies. We have four copies from 1700 to 1750, and there is only one copy after this date, in 1850. So, what can this diagram tell us? We can infer from Atâyî's note in 1634 that Akkirmani's fatwas had a considerable recognition, that they became popular at least before 1635. However, *Fetâvâ-yı Akkirmani* started to spread as a collection after 1640. From this date onwards, the collection's identification increased particularly at the second half of the seventeenth century. Then, how could a local mufti exceed the borders of Akkirman and his opinions were being read at Istanbul, even in Cairo? Why a provincial mufti's fatwa collection, who was at the very edge of the Empire, was that much acknowledged

[14] In the terminology of Islamic jurisprudence, *vâkıât* has pretty close meaning to *fetâvâ* and *nevâzil* with some nuances. Therefore I accept vâkıât as the same meaning with *fetâvâ*. See for a detailed discussion: Eyyüp Said Kaya, "Nevâzil," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/nevazil.

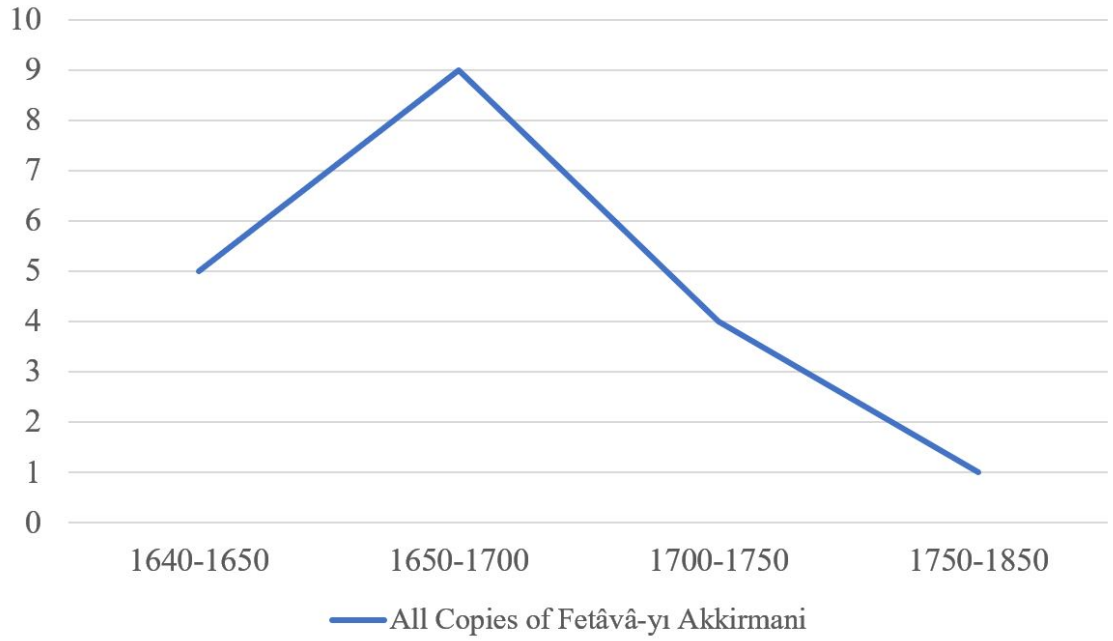

Figure 3.2 The Periodical Distribution of the Copies of *Fetâvâ-yı Akkirmani*

by the other scholars?

In his recent article, Guy Burak claims that during the eighteenth century, the provincial fatwa compilations rose across the Empire, from the Balkans to the Arab provinces.[15] However, the analysis of *Fetâvâ-yı Akkirmani* shows that the existence and spread of the so-called provincial muftis' fatwa collections was not a new phenomenon, for it already has been going on at least from the mid-seventeenth century. The Figure 2 clearly shows that the fatwa compilation of Ali Akkirmani reached its pinnacle between 1650-1700. In addition to Akkirmani, another important provincial mufti, Pîr Mehmed Üskübi's *Muînü'l-Müftî el-Cevâb Ale'l-Müsteftî* was compiled in 1039/1630. It has 73 copies today in the libraries and many of them were most probably copied during the seventeenth century. Similarly, there are numerous fatwa compilations belonging to the seventeenth century muftis and scholars throughout the Empire, such as Abdurrahman b. İsa's (d. 1627) *Fetâvâ*, Mevlana Piri Efendi's (d. 1627) *Suveru'l-Fetâvâ*, Ebu'l-Berekât es-Sivâsî's (d. 1638) *Fetâvâ*, Süleyman Efendi's (d. 1667) *Fetâvâ* etc. Thus, Burak's claim needs to be revisited, either periodically or geographically. Still, my evaluations are provisional in the sense that they rely on the available manuscripts. It should bear in mind that there could be copies that we could not access or got lost.

[15] Guy Burak, "Şeyhulislâm Feyzullah Efendi, the anafī Mufti of Jerusalem and the Rise of the Provincial Fatāwā Collections in the Eighteenth Century," *Journal of the Economic and Social History of the Orient* 64, no. 4 (2021): 379-81.

3.3 Analysis of Fetâvâ-yı Akkirmani and Its Comparison with Other Compilations

The literature of *nevâzil* or *fetâvâ*, emerged two centuries after the hijra, with the need of muftis for reference books when they issue a fatwa. This scholarly tradition continued under the Ottomans with fatwa collections of the chief muftis and provincial muftis.[16] Even though available individual fatwas belonged to the muftis date back to the early fifteenth century,[17] it was in the early sixteenth century that the fatwas of the chief muftis started to be compiled as separate collections.[18] These fatwas were compiled either separately as *Fetâvâ* or together with those of other chief and provincial muftis as "*Mecmûa-i Fetâvâ*."[19] Individual collections of provincial muftis appeared in the sixteenth century with *Fetâvâ-yı Reddiyye* of Muhyiddin Muhammed b. Pir Ali el-Birgivi (d. 1573), *el-Fetâva'l-Adliyye* of Rasul b. Salih el-Aydını (d. 1570) and *Müfîdetü'l-Enâm* of Mehmed b. Şeyh Muslihuddin (d. 1595). In the seventeenth century, there are several collections. Among these were *Muînü'l-Müftî el-Cevâb Ale'l-Müsteftî* and *Zahîru'l-Kudât* of Pir Mehmed Üskübi, *Fetâvâ* of Abdurrahman b. İsa.[20] As a matter of fact, these findings lead us to think that the assertion that it was only "the fatwas of the chief muftis -the Mufti of Istanbul- that have survived in large numbers"[21] was mistaken.

The increase in the provincial fatwa collections during the late sixteenth and early seventeenth century was probably because the scholar-bureaucrats spread over the different regions of the Empire needed to consult with the precedent opinions, i.e. earlier and successful adaptations of the Ottoman law in the practice. In addition,

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[16] About the literature of fetâvâ see: Fahrettin Atar, "Fetva," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/fetva.

[17] For example see: *Fetâvâ-yı Mevlânâ Arab*, Bağdatlı Vehbi Efendi, 585, Süleymaniye Kütüphanesi. In this manuscript, a few fatwas of Ottoman muftis Molla Fenari (d. 1431), Mehmed Fenari (d. 1435), Molla Fahreddin (d. 1461), Molla Hüsrev (d. 1480), Molla Hocazâde (d. 1488) and Molla Gürani (d. 1488) are found.

[18] For example see for Kemalpaşazade's (d. 1534) fatwa collection: *Fetâvâ*, Yazma Bağışlar, 3369, Süleymaniye Kütüphanesi. Also for Sadi Çelebi's (d. 1539) fatwa collection: *Fetâvâ-yı Sadi Çelebi*, Şehit Ali Paşa, 1073, Süleymaniye Kütüphanesi.

[19] Ebussuud's fatwa collection can be cited in this regard: *Fetâvâ-yı Ebussuud Efendi*, Çelebi Abdullah Efendi, 151, Süleymaniye Kütüphanesi. As an example of the collection of a group of chief muftis, *Mecmûa-i Fetâvâ* that Ibnü'l-Edhemi el-Manisavi Sadi b. Hüsam compiled can bi given. In this, fatwas of four chief muftis, Kemalpaşazade, Sadi Çelebi, Ebussuud and Abdülkadir Hamidi Çelebi were compiled: *Mecmu'a-i Fetâvâ*, 2835, Atıf Efendi Kütüphanesi. For a list including names and copies of the collections: Şükrü Özen, "Osmanlı Döneminde Fetva Literatürü," *Türkiye Araştırmaları Literatür Dergisi* 3 (2005): 262-305.

[20] See for a relatively comprehensive list of provincial muftis' collections: Özen, "Osmanlı Döneminde Fetva Literatürü," 305-19.

[21] Colin Imber, *The Ottoman Empire, 1300-1650: The Structure of Power* (New York: Palgrave Macmillan, 2002), 235.

as will be discussed in the later chapters, the Ottoman center dictated qadis to follow the most authoritative opinion in the Hanafi school. Scholar-bureaucrats in the late sixteenth and seventeenth centuries thus wrote works to inform qadis and muftis about those opinions. Rasul b. Salih el-Aydınî (d. 978/1570), the qadi of Marmara, stated in the introduction of *el-Fetâvâ'l-Adliyye* that he compiled authoritative opinions (*müftâ bih*) for qadis and muftis in accordance with the order of Süleyman I.[22] Üskübi's *Zâhiru'l-Kudât* was also the result of a similar intention, to relate fatwas with the sultanic orders.[23]

In other words, emergence of fatwa compilations of the chief muftis could be related to the rise of the institution of chief mufti in the sixteenth century. In the same vein, as the scholar-bureaucrat hierarchy consolidated towards the end of the sixteenth and early seventeenth century, scholar-bureaucrats scattered around the imperial realm produced fatwa compilations for those who will follow them in the offices. Though the motivation for collecting the fatwas of the chief muftis and provincial muftis were the same, there were formal differences. As it will be discussed in the following chapters in detail, towards the end of the sixteenth century, provincial muftis were to add references at the end of their fatwas (*nakl* or *nakil*, its plural *nukûl*) unlike the chief muftis. Also, the fatwas of provincial muftis were relatively longer compared to those of chief muftis.

[22]Rasûl b. Sâlih el-Aydını, *el-Fetâvâ'l-Adliyye*, 003553, Diyanet İşleri Başkanlığı Kütüphanesi. For an MA thesis on this fatwa collection: Hatice Batmaz, "İslam Hukuku Literatüründe Bir Fetva Mecmuası Örneği el-Fetâvâ'l-Adliyye ve Tahlili / A Sample of Fatwa Collection in Islam Law Literature: El-Fetâvâ'l-Adliyye and Its Analysis" (MA Thesis, Çukurova Üniversitesi, 2020).

[23]Pir Mehmed Üskübi, *Zahîru'l-Kudât*, Aşir Efendi 133, 1b, Süleymaniye Yazma Eserler Kütüphanesi.

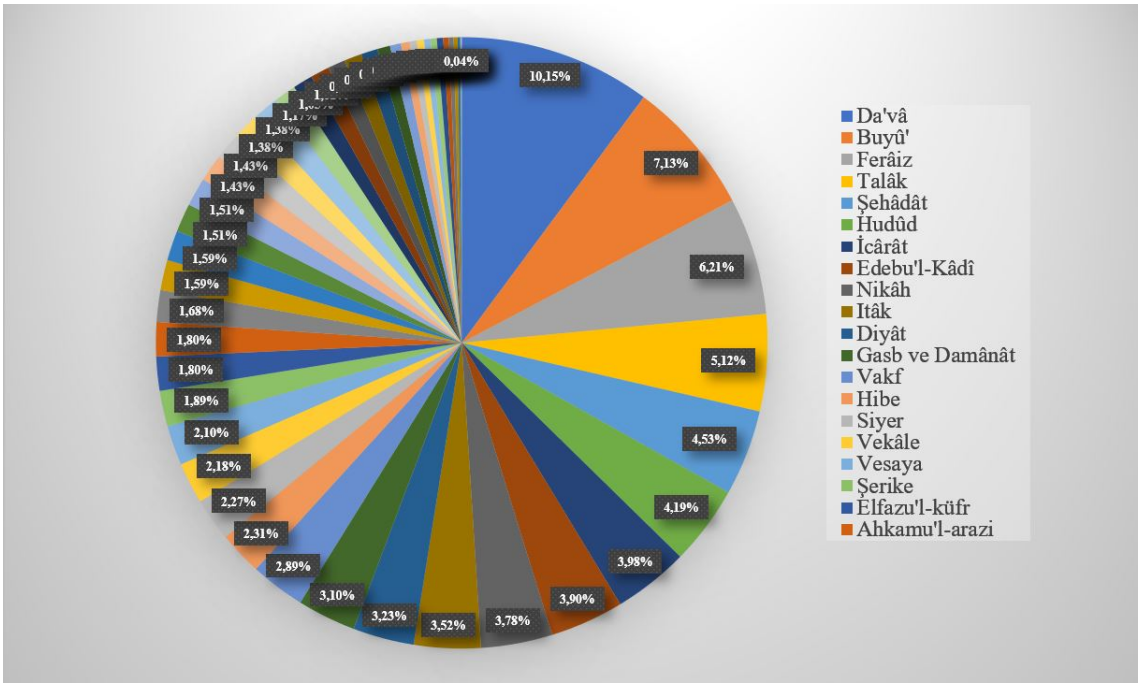

Figure 3.3 The Distribution of Fatwas in *Fetâvâ-yı Akkirmani* according to their Subjects (Ms. Hafid Efendi 98)

Being a typical example of this literature, *Fetâvâ-yı Akkirmani* holds the similar formal and structural characteristics of this literature such as the form of question, language, the classification of sections. The collection was divided into chapters (*kitâb*s) according to their topics. Fatwas were recorded in the form of question (*mesele*) and answer (*cevâb*). Both questions and answers were formulized jurisprudential language, in which the actors are given anonymously either with names Zeyd, Amr, Bekir, Hind or as fülân (someone). The language was abstracted for fatwas to be used in various conditions and times. The answers can be short as simply "*Olur/Olmaz*" (Yes/No) or might include further explanations. After the answers come references (*nakil*s) as provincial muftis were required to cite their scholarly sources.

A general overview of *Fetâvâ-yı Akkirmani* in terms of the size of the chapters gives an idea about some aspects of Akkirmani's muftiship. This pie chart is divided into 49 sections that are close to each other. Therefore, discrepancy between the slices is quite low, less than one percent. However, the Chapter of Litigation (*Kitâbu'd-Davâ*) takes the first place with 10,15% and outpoints its follower with three percent gap. We can also take the Chapter of the Etiquette of the Judge (*Kitâbu Edebi'l-Kadı*) together with *Davâ*, for their content is similar. Both mainly involve fatwas about judicial procedure.[24] So the percentage related to the judgment process rises

[24]Cevdet Yavuz, "Dâva," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/dava–fikih.

to 14,05 percent. The Chapter of Transactions (*Kitâbu'l-Buyû*) occupies the second rank with 7,13% which is still outstanding percentage compared to the other sections.

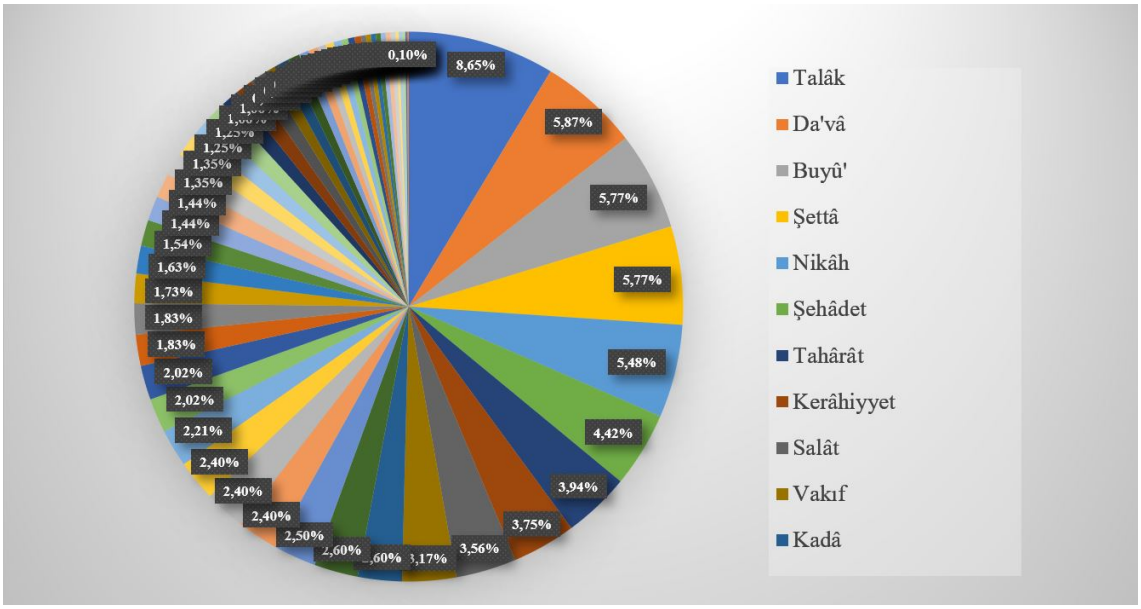

Figure 3.4 The Distribution of the Fatwas in Üskübi's *Muînü'l-Müftî el-Cevâb Ale'l-Müsteftî*

We can take another provincial mufti's fatwa collection to compare, Pîr Mehmed Üskübi (d. 1611 or 1620), who was at the office of muftiship of Skopje until his death. He was "the most perfect example of provincial muftis" according to Atâyî.[25] Analysis of his *Muînü'l-Müftî el-Cevâb Ale'l-Müsteftî* based on 56 sections, shows a relatively more balanced distribution among the slices.[26] The Chapter of Litigation (*Kitâbu'd-Dâvâ*) takes the second place after the Chapter of Divorce (*Kitâbu't-Talâk*). The size of Chapter of Divorce, nevertheless, is almost equal to the Chapter of Transactions (*Kitâbu'l-Buyû*), Various Issues (*Mesâil-i Şettâ*) and the Chapter of Marriage (*Kitâbu'n-Nikâh*). Thus, unlike *Fetâvâ-yı Akkirmani*, the Chapter of Litigation seems relatively insignificant in *Fetâvâ-yı Üskübi*.

[25] "*kenār müftīlerinüñ ekmeli ve emsālinüñ emseli idi*" Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 2, 1424.

[26] I took the number of fatwas based on the chapters in *Fetâvâ-yı Üskübi* from Keskin's study. Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili," 306, 07.

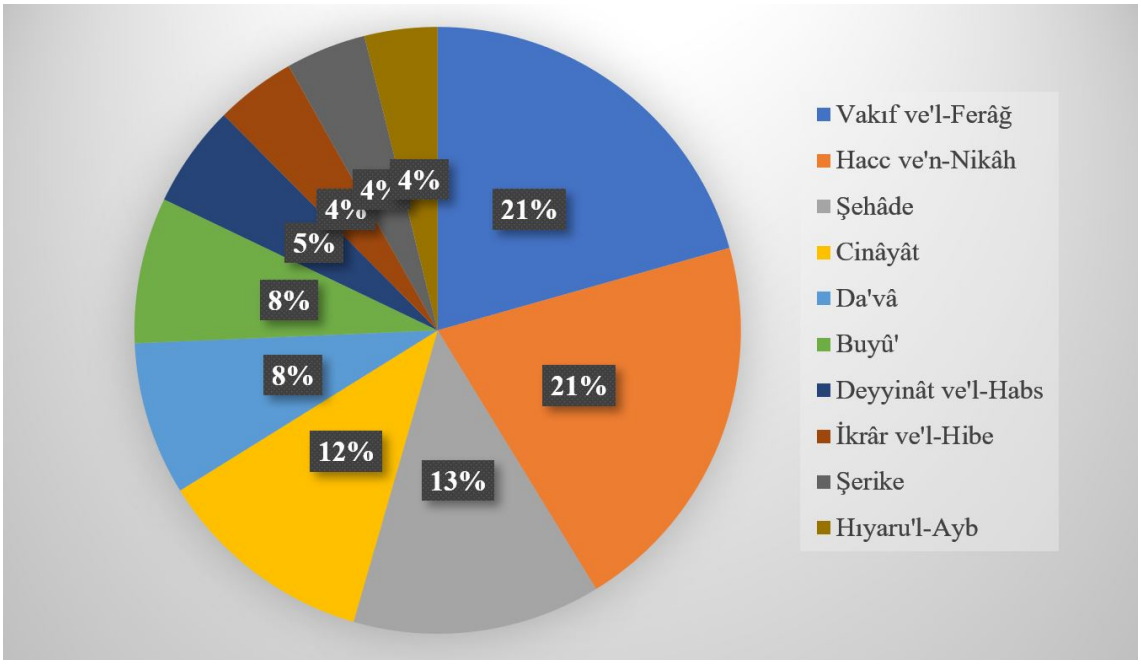

Figure 3.5 The Distribution of the Fatwas in Abdurrahman b. İsa's *Fetâvâ*

Likewise, another contemporary fatwa compilation, *Fetâvâ* of the mufti of Mecca, Abdurrahman b. İsa el-Mürşidi (d. 1627) offers a similar result. The Chapter of Litigation (*Kitâbu'd-Davâ*) takes the fifth place with the rate of 8 percent after the Chapter of Endowment (*Kitâbu'l-Vakfi ve'l-Ferâğ*), the Chapter of Pilgrimage and Marriage (*Kitâbu'l-Hacci ve'n-Nikâh*), the Chapter of Testimony (*Kitâbu'ş-Şehâde*) and the Chapter of Crimes (*Kitâbu'l-Cinâyât*). It seems that just like Pir Mehmed Üskübi, questions directed to el-Mürşidi were not principally related to the Chapter of Litigation.

The distribution of the fatwas for each mufti should be explained considering its own context. For example, it is not hard to reckon that Abdurrahman b. İsa's high number of fatwas about pilgrimage (*hacc*) stemmed from Mecca's being the pilgrimage location. Then, we can ask what was distinctive in Akkirmani's case that increased the number of the fatwas, related to court procedure. The frequent question types in this section are: Which evidence (*beyyine*) can be accepted, which problems can be examined (*davâsı istimâ olunur mu?*), which oath (*yemîn*) is valid, on whose word the qadi should adjudge (*şeran kavl hangisinindir?*). These questions could have been directed to Ali Akkirmani by the people who wanted to enhance their position in the litigation or by the qadi who wanted to consult about the correct and viable opinion. Two possibilities amount to the same meaning that the mufti was involved in the court procedure. In other words, the abundance of fatwas in the Chapter of Litigation demonstrates Akkirmani's de facto influence in the courts.

The way Derviş Mehmed el-İstanbuli compiled *Fetâvâ-yı Akkirmani* provides more for interpretation. In the introduction, he reveals that the fatwas of Ali Efendi were scattered around the city-dwellers who demanded fatwas. According to his narrative, it was Derviş Mehmed who picked up those fatwas from the hands of the people of the city and carefully sorted them out according to their subjects. This is interesting for two reasons. First, the fatwas of provincial muftis were generally compiled by themselves or their relatives. For instance, Mehmed b. Şeyh Muslihuddin (d. 1004/1595), Süleyman Efendi (d. 1078/1667), Mehmed b. Bistâm el-Hoşâbi (d. 1096/1685) recorded and composed their own collections, *Müfîdetü'l-Enâm*, *Fetâvâ-yı Bistâmî* and *Fetâvâ*, respectively.[27] Similarly, Vani Mehmed Efendi himself compiled his fatwa collection, *Fetâvâ*.[28] Üskübi's fatwas were collected and put in order by his son, Ahmed Efendi.[29] It was Abdurrahman b. İsa's grandson who compiled his grandfather's fatwas.[30]

The case differs when it comes to *Fetâvâ-yı Akkirmani*. Neither himself nor his relative, an official from Istanbul undertook this task. Furthermore, Derviş Mehmed's statement that he collected the fatwas from the people of Akkirman is noteworthy. It is unlikely that Derviş Mehmed gathered fatwas one by one from city dwellers, some of them might be already collected in a certain place. As an imperial officer, he might have called people possessing Akkirmani's fatwas to give him. In any case, it seems very likely that a significant number of fatwas were being preserved by the people. This in fact demonstrates how much the city embraced Ali Akkirmani. More than an emotional attachment, the reason for the collective adherence of the city should be the functionality of the fatwas. In other words, people have been preserving Ali Akkirmani's fatwas collectively, even a decade after his death, because they were presumably continued to be useful in the court to support one's position or right.

3.4 Akkirmani's Fatwas in a Compilation

In addition to *Fetâvâ-yı Akkirmani*, Akkirmani's fatwas were also compiled together with some chief muftis' fatwas in a few collections. The manuscript that is in Süley-

[27] Özen, "Osmanlı Döneminde Fetva Literatürü," 306-09.

[28] Köse, "The Fatwa Collection of an Provincial Mufti Vani Mehmed Efendi (D. 1685)," 22.

[29] Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili," 5.

[30] Abdurrahman b. İsa el-Mürşidi, *Fetâvâ*, 1308, İzmirli İsmail Hakkı, 827, 1, Süleymaniye Yazma Eser Kütüphanesi.

maniye Library Lala İsmail 706 is the example of it. This manuscript has no title. However, in its front page, as the title of its table of contents, it is written that "In this lovely collection written by Dellâkzade Hafız Mustafa Efendi, the commentator of *Mülteka'l-Ebhur*, the former qadi of Skopje."[31]

Figure 3.6 The Front Page of the Collection found in Ms. Lala İsmail 706

Under the title, it was recorded that the collection was compiled in 1071/1660. We learn from the titles in the table of contents that the collection includes various short epistles (*risâle*s) and prefaces (*dibâce*s) about various disciplines. The collection comprises of 548 pages. Akkirmani's fatwas have been placed after the section on "Ebussuud's Fatwas on Shiites (*Ravâfız*)." 27 fatwas of him scattered on different places irregularly for twenty pages, together with the fatwas of the chief mufti Ebussuud and occasionally a few other chief muftis such as Kemâlpaşazâde (d. 1534), Sunullah Efendi (d. 1612) Esad Efendi (d. 1625), and provincial muftis such as the

[31] "Mâ fî hâze'l-mecmûa el-latîfe bi-hatti Dellâkzâde Hâfız Mustafa Efendi şârihu Mülteka'l-Ebhur li-kadı bi-Üsküb sâbıkan li-sene 1071" *Mecmûa*, Lala İsmail, 706, Süleymaniye Yazma Eserler Kütüphanesi, Ia.

mufti of Caffa (d. 1582) and several more scholars.[32] These expressions under the fatwas give the hint that the relevant fatwa belonged to Akkirmani:

"This was written by the poor Ali, the mufti of Akkirman (*Ketebehû el-Fakîr Ali el-Müftî bi-Akkirman*)"

"This was written by the virtuous the deceased Ali Efendi, the mufti of Akkirman (*Ketebehû el-Fâzıl el-Merhûm Ali Efendi el-Müftî bi-Akkirman*)"

"From Fetâvâ of the deceased Ali, the mufti of Akkirman (*Min Fetâvâ el-Merhûm Ali el-Müfti bi-Akkirman*)"

Figure 3.7 Ms. Lala İsmail 706, 241a. From Top to Bottom, First Fatwa Belongs to Ebussuud, the Second and Third to Akkirmani

These fatwas take place verbatim in *Fetâvâ-yı Akkirmani*. It is very probable that the author of Lala 706 consulted with one of the copies of *Fetâvâ-yı Akkirmani*.

[32] *Mecmûa*, Lala İsmail, 706, Süleymaniye Yazma Eserler Kütüphanesi: 242-63.

Moreover, this collection was not well-organized. It seems that the author, possibly a scholar-bureaucrat, either qadi, mufti or professor, or a student, produced it for his personal purposes for his education or scholarship. The author's inclusion of Akkirmani's fatwas intensely together with those of chief muftis reveals the influence of Akkirmani a few decades after his death. His scholarship and competency in grasping the Ottoman law allowed him to find a place among the chief muftis.

3.5 Conclusion

The analysis of the collections showed that *Fetâvâ-yı Akkirmani* was compiled after the death of Akkirmani and found considerable acceptance. Therefore, Atâyî named his name and fatwas in his bibliography after three years the compilation was finished. Then, in the following decades, particularly during the mid-seventeenth century, the collection was widely copied in the different regions of the Empire. In the copies of *Fetâvâ-yı Akkirmani*, the copiers frequently included fatwas of other chief and provincial muftis in the margins. Also, in separate compilations, Akkirmani's individual fatwas were brought together with the most influential chief muftis. These all demonstrate his acceptance among the scholars. The scholars in the seventeenth century probably needed to consult with such works of earlier qadis and muftis. This need explains the acceptance of *Fetâvâ-yı Akkirmani* in one aspect. Also, Akkirmani's scholarly networks that he established during his years in the imperial center, his competence in the scholarship and grasping the Ottoman law in the late sixteenth and early seventeenth century as well as his establishment of authority probably contributed to the spread and production of the collection. I will discuss these elements in the following chapters.

4. THE SOURCES OF AKKIRMANIS LEGAL AUTHORITY

In this chapter, I will examine Ali Akkirmani's ways and aspects of construction of legal authority. By "legal authority," I refer to justified right to interpret the existing law, support a legal norm or legislate in the eyes of the people, local elites, officials and imperial center. In that sense, I claim that Ali Akkirmani's authority derived from three points: Local origins and scholarly networks, juristic and imperial authority. Coming to a frontier city where tension among officials and common people was high due to the ongoing crisis at the imperial scale, Akkirmani enjoyed his locality in differentiating himself from the other officials. His scholarly network also made him prominent in the eyes of his interlocutors. He established his authority at the level of scholarship which I examine as "juristic" authority. This authority was emanated from his education in madrasa, mastery in the current state of Islamic jurisprudence, ability to place himself in the madhhab and to comprehend the Ottoman law. Therefore, we might argue that juristic authority was closely related to his scholarship. Akkirmani's imperial authority originated from his appointment by the imperial center at first place. Separating it from the earlier states, the Ottoman Empire sought to cooperate with scholar-bureaucrats assigning them from center to the province. Not only did qadis held the state authority by this way, but provincial muftis also had it. As a member of this group of scholar-bureaucrats growing in number and ascendancy towards the end of the sixteenth century, Ali Akkirmani utilized the imperial authority. His often references to the sultanic orders and the fatwas of chief muftis constituted two other main tools to establish imperial authority. Furthermore, to demonstrate and prove his authority over his interlocutors, the mufti employed a distinguished style in his fatwas. Last but not least, these three were not separated from each other with thick lines, on the contrary, were closely connected.

4.1 Akkirmani's Local Origins and Scholarly Networks

In their comprehensive study on the eighteenth century Kastamonu, Ergene and Coşgel indicated the local origins of provincial muftiship. It was carried out primarily by "locally influential families, who possessed religious-legal credentials and enjoyed respect for their piety and other personal qualities."[1] They put forth that one would expect the judge to easily accept the opinion of the mufti, for they follow the identical legal standards and terminology. Nevertheless, they indicate that local politics had its role in the judicial procedure. They claim:

> Whereas judges served in court districts temporarily, muftis were usually local legal scholars who had influence and commanded respect. Their opinions probably carried weight and made it difficult for the judge to disagree.[2]

However, it seems that the situation was somehow different in the late sixteenth century Akkirman, and possibly in other parts of the Rumelia. As shown in the first chapter, before Ali Akkirmani's arrival in 1592, former muftis in Akkirman did not have local origins. Previous muftis also were like qadis, who were temporal scholar-bureaucrats rotating in different posts in accordance with their status. Akkirmani's case, therefore, seems to have had a different characteristic. Contrary to his predecessors, because Akkirmani was locally originated, we can give credit to Ergene and Coşgel's reasoning that due to their local legal identity, they carried "influence and commanded respect." Thus, the judges could not simply reject their weighty opinions. Along the same lines, Akkirmani seems to have benefitted from his local origins to augment his authority that would rely on his legal knowledge as well as his appointment by the Ottoman center. However, judges in Akkirman before and after this date did not settle in the province but rotates among different parts of Rumelia. For example, in April 1609, when the qadi of Akkirman, Mevlana Lütfullah died, his replacement, Mevlana Şaban came from another city.[3]

Initially, Ali Akkirmani's being from the native of the city must have positively influenced common people. The muftis before him, as shown in the second chap-

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[1] Metin Coşgel and Boğaç Ergene, *The Economics of Ottoman Justice: Settlement and Trial in the Sharia Courts*(Cambridge: Cambridge University Press, 2016), 243.

[2] Coşgel and Ergene, *The Economics of Ottoman Justice*, 259.

[3] 10, Rumeli Kazaskerliği Rûznâmçeleri, İslâm Araştırmaları Merkezi: 5.

ter, were strangers to the city. They were scholar-bureaucrats circulating around various cities and posts. This does not mean that the other muftis were perceived and approached negatively. However, it is quite probable that Akkirmani became distinguished with this characteristic from not only the previous muftis, but the other officials in different posts as well. The relationship between Akkirmani and the people therefore must have been relatively intimate compared to that of others. Numerous fatwas that we will discuss will show how common people sought shelter in Akkirmani's office in the face of other officials' actions. Moreover, as a native of Akkirman, Ali Akkirmani knew better the economic conditions and social dynamics of the city. It is not a coincidence that with his scholarly background on the one hand and his acquaintance with local circumstances on the other, Akkirmani's fatwas were probably most of the time to the point. This must have contributed to his acceptance by the locals. Moreover, it would be reasonable to recall Zecevic's findings on the development of muftiship in Bosnia that all muftis in the Bosnia starting from the late sixteenth century were locally originated and educated. For now, it is hard to claim that this one was an imperial trend, though, one can argue that this might indicate a need for mufti to be a local figure, Akkirmani met this need.

Furthermore, in addition to his being native of Akkirman, his social network that he had during his years in Istanbul must have contributed to his authority. As mentioned in the first chapter, Akkirmani got not only education and the status of novice (*mülâzemet*) in Istanbul, but a social network that reached to the pinnacle of the hierarchy. We know that he joined the scholarly networks becoming in service of Bitli Ali Efendi after he arrived in Istanbul. Bitli Ali Efendi's own network must have been wide enough, as he held the posts of professorships in the most prestigious such as the madrasas of Sahn, Şehzade and Valide Sultan. He later became the qadi of Bursa and then, the qadi of Istanbul. In addition, through mediation of Bitli Ali Efendi, Ali Akkirmani had a connection with his uncle, Çivizâde Mehmed Efendi, who was the chief mufti between 1582-1587. Once he arrived in Akkirman as professor and mufti in 1592, he came with this social and professional network. Since this network was already esteemed enough in the imperial center, it must have been very much efficient at the province. Thus, his educational background in Valide Sultan Madrasa and his wide network extending to the very top of the empire gained him the respect and recognition of the common people and officials in Akkirman.

4.2 Akkirmani's Language and Style

It is clear that *Fetâvâ-yı Akkirmani* was not merely a collection of fatwas consisted of questions and short answers, "Yes" or "No". Akkirmani utilized a peculiar style and language in his fatwas. These probably did not take part in his establishment of authority, but made his interlocutors to feel it. In other words, his power of expression indirectly influenced the impact of his fatwas. For example, he occasionally gives place to poetry within his references which he thinks to be supportive his argument. In his cannabis fatwa, he inserts three different short poetries under the titles of "*kıta*" and "*nazm*". Akkirmani characterizes the one belonging to İbn Şıhne (d. 1515) proving and explaining the prohibition of cannabis.[4] In *Kitâbu'd-Diyât* he quotes a poetry and narrate the words of Ali b. Ebi Tâlib (d. 40/661), the fourth caliph.[5] In *Kitâbu'l-Cinâyât*, in his response, Akkirmani gives some part of his nukûl as poetry.[6] In another fatwa on swearing at the descendants of Benû Hâşim (sebb-i benî Hâşim), Akkirmani fiercely reacts and states that this is an unforgivable act and certain blasphemy. Then he quotes Kemâlpaşazâde's verses to develop his argument.[7]

In some examples, the mufti goes beyond legal and scholarly definitions of our understanding of fatwa and uses it as a place for preaching and public warning. One of these examples can be seen in a fatwa about the prayers of the blessed nights such as *Regâib* (The Night of Wishes), *Berât* (The Night of Freedom) and *Kadir* (The Night of Glory). It was narrated that people call these nights as "the night of prayer" (*namâz gecesi*), they never miss performing them in masjids following imam and Akkirmani was asked whether it was sinful to not perform these prayers. The mufti made his point with a clear "no." He then frankly opposed:

> It is disliked (*mekrûh*) to perform them in masjids together with the community. It is those people who do not perform required (*ferâiz*) prayers and strictly fulfill these supererogatory prayers. They prefer the optional prayers over the required duties. Therefore it is problematic to perform them with this belief.

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[4] "tafsîl-i müşbî ve tatvîl-i mukni ile tansîs etmişdir" Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 256a.

[5] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 261a.

[6] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 269a.

[7] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 290a. For other similar examples in Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 292a, 302b.

Thereafter, he stated, "*fakîr-i pür-taksîr* (poor sinful person)," meaning himself, "calls these nights '*bî-namâz gecesi*,' the night of those who do not pray."[8] Other than letting the questioner know the rule and confine himself with it as one sees in other fatwa collections, Akkirmani attached his own expression in a preaching manner by adding his own way of understanding and labeling the night as "*bî-namâz gecesi*."

Another example can be given as the following question:

> Question: Whether it is a must to read âyetü'l-kürsî after the daily five prayers (*salavât-ı hamse*)?

Akkirmani would just state that "it is not." Nevertheless, he preferred to respond saying more, conducting the questioner to good deeds:

> Answer: It is not a must, yet one can benefit from lots of otherworldly rewards, if he reads it after the prayers.[9]

In another example, Akkirmani gave a similar advice to the one intending to raise the profit rate of the cash endowment from 15 percent to 20 percent. In the first part, the mufti informed that the maximum profit rate determined by the sultanic decree was 15 percent and it was not allowed to exceed it. He then addressed to the conscience of the successor trustee:

> While this debt should have been given even without profit, because only people who really in need for it are constrained to take this debt, to increase the profit would be such a merciless, unjust, disregardful and stingy act.[10]

In this one, he took such a language as if he was on the pulpit of the mosque and preaching to the people condemning who desired to exploit someone's economic vulnerability.

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[8] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 8b.

[9] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 3a.

[10] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 114a.

In general, Akkirmani used a formal language in his fatwas. Sometimes, nevertheless, he put in use offensive language. Not merely were they personal reactive expressions but they also showed the mufti's self-confidence that psychologically affected the audience. To put more concretely, it would be useful to remind his fatwas about ablution (*âbdest*) and holy holiday prayer (*bayrâm namâzı*). In the former, Akkirmani answered the first question in a formal way, as normal. However, once he and his scholarship were challenged by "some scholars (*bazı ulemâ efendiler*)," Akkirmani's tone changed in the next question. He directly aimed at and humiliated them to be "scholars of entertainment (*âlim bi-eyyâmillâh*)" because "an expert scholar would not say such a thing."[11]

Likewise, when people came to him complaining about the qadi's decision to pray the holy holiday prayer (salât-ı îd) outside of the city walls, Akkirmani objected to the qadi, citing the sultanic authority and authoritative books of Islamic jurisprudence:

> Question: When the holy holiday coincided with the winter days and harsh cold, Muslims gathered to pray the holy holiday prayer in the mosque within the walls built by Sultan Bayezid during the conquest and preacher (*hatîb*) authorized by the sultan was about the preach, the qadi sent word to the mosque that "I am going to the place of prayer (*musallâ*) outside the walls, those who obey the law (*şer-i şerîf*) follow me." Most of the congregation responded that "We are old and poor men, we cannot pray in that cold weather in the desert in the place of prayer, we will pray in the mosque" and did not go. If there is no sultanic permission (*izn-i sultânî*) to pray in the place of prayer and the authorized preacher of the mosque led Muslims the holy holiday prayer, do they become disobedient to the law?
>
> Answer: They become obedient to law and prayed their prayers validly. The permission of the sultan is also required for the validity and fulfilment of the holy holiday prayer, as in the Friday prayer. It is not permissible in the case that the permission of the sultan is absent. The issue is written and famous in the chapters of two holy holiday prayers (*salât-ı îdeyn*) of Vikâye and Hidâye and other authoritative (*muteberât*) [books].

[11] Ali Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1970, Ib-1a, Beyazıt Yazma Eserler Kütüphanesi.

This was his ordinary way of establishing authority. As the tone of qadi rises in the questions, so does that of the mufti.

> In this vein: Even though the qadi had not the permission of the sultan to lead the prayer and was not authorized to lead, he forcefully led them in prayer saying "It is the decision of qadis whether to pray the holy holiday prayer or not" and claimed that "Prayers and marriages of those who prayed in the mosque became invalid." Did their prayer and marriages become invalid in reality?
>
> Answer: He said wrong, [he was] the embodiment of ignorance. If the qadi is not authorized for the Friday and holy holiday prayer, his lead is not permissible. Qadis of our times are not authorized for leading prayer, they apply to the sultan for permission. ...
>
> In this vein: Can qadi say addressing the preacher of the mosque and others "I will punish you and have your assets take by force"?
>
> Answer: No. He can only punish himself with his ignorance and wrong invalid words.

As for the qadi's assertion that the prayers and marriages of those who prayed in the masjid were not flawed (*fâsid*), Akkirmani targeted the qadi that "He said null (*bâtıl söylemiş*)." This still can be accepted. Afterwards, nevertheless, Akkirmani described him as "*azîm câhil*" meaning "[he was] the embodiment of ignorance." Then, he raised the tone even higher. He sarcastically responded to the qadi's threat to the disobedients of him. He said that the qadi is not allowed to carry out these threats and it would be enough for him to punish himself with his ignorance and invalid words (*Cehl u bâtıl kavliyle kendiyi tazîr yeter*).[12]

In another reflection of this attitude, Akkirmani harshly criticizes qadi's request for evidence and witnesses in a case of cursing one's faith:

> Answer: After Zeyd rejected, requiring proof for his infidelity and then listening to it, qadi proves his own ignorance. After his rejection, Zeyd is not accused of infidelity. To prove his infidelity, evidence should not be demanded and listened. His rejection itself is considered a pledge and

[12] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 7a-7b.

return.[13]

Mentioning qadi's request for proof as proof for his ignorance is a pretty clever and sarcastic language to be used in a fatwa. Though Akkirmani seemed to be pretty competent on this.

4.3 Imperial Authority

As it was the case probably for other muftis -at least- in Rumelia, a provincial mufti's authorization by the state was not unprecedented in the late sixteenth century Ottoman Empire. Scholar-bureaucrats served the ideal to connect the province to the center. Thus, by appointing them to the provinces, the imperial center must have aimed at adding another link to its bonds from center to the province. Muftis, in this provincial organization, have been entrusted to ensure that the imperial law and sanctions by the center were to be followed. In return, this meant official authorization for the scholar-bureaucrats in the province.

Since the late sixteenth century the Ottoman law was a combination of them, by imperial authority, I refer to two essential authorities: the sultan and the chief mufti. Therefore, Akkirmani's reliance on the imperial authority in his fatwas is observable particularly in two categories: sultanic decrees and fatwas of chief muftis.

4.3.1 References to the Sultanic Authority

Educated in one of the top madrasas in the imperial center, Akkirmani, first of all, was an imperial scholar-bureaucrat. When he was assigned professor-mufti to el-Hâc İbrahim Madrasa and Akkirman by the imperial center, he possessed official authorization to issue fatwas. By this appointment, he became leveled up in the provincial politics and lawmaking regarding other critical officials in the province, such as qadi and governor, also enjoyed the identical imperial authority that they derived from their appointment. In this scheme, the mufti represented the imperial law and supervised it. He effectively used this authority in his fatwas.

We can once more recall the fatwas on the Friday prayer and the Holy Holiday prayer to see a concrete example of how Akkirmani established his authority basing

[13] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 90b.

on the rulings by the sultan.

> Question: Is it permissible to perform Friday sermon (*hitâbet*), leading the prayer (*imâmet*) and calling adhan (*tezîn*), if someone is not authorized (*mezûn*) and appointed (*mansûb*) by the sultan or qadi?

Here, Akkirmani limited the scope of qadi referring to the authority of sultan:

> Leading the Friday prayer is considered among the acts of the sultan. The Friday sermon is not allowed unless he is authorized by the sultan.

He also evoked the limitations adding that qadis of the time are not authorized to acknowledge one's permission to conduct the Friday prayer.[14] A more concrete example of authorities of two offices conflicting each other revealed in a fatwa on the holiday prayer. As it was narrated in the previous chapter, Akkirmani rejected the qadi's claim that the community had to follow his lead for the Holiday prayer basing on the fact that it was also dependent on the permission of sultan just like Friday prayer. Therefore, unless the qadi was not authorized and appointed to lead the prayer, his lead was not valid.[15]

Moreover, Akkirmani frequently referred to the sultanic decrees and the fatwas of the chief muftis in his fatwas. His fatwa on the rate of profit for cash endowments represents Akkirmani's inclusion and reliance on imperial authority:

> ... The issue is written in some chapters of [the books of] *Fetâvâ* and *Eşbâh* ve *Nezâyir*. They have been sent in 957 Rebîülâhir to the chief of the chief muftis Ebussuûd Efendi, then in 973 Muharrem to the governor of Mora Osman Şah, then in 980 Safer, to the governor of the same province, Muhammed Bey that cash (*akçe*) cannot be lent more than half and eleven out of then ... This order as it was explained belongs to his excellency Sultan Süleymân -may God have mercy upon him-. Those sultans succeeding him also approved and kept it and no opposite decree has been issued, it still remains as valid. [16]

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[14] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1970: 7a.

[15] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 7a-7b.

[16] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 109b-10a.

Cash endowments were a disputed issue during the mid-sixteenth century among different branches of the state and society, primarily between two camps: Ebussuud and Çivizade. It was eventually resolved in favor of the former's position due to the sultanic decree and cash endowments were accepted lawful.[17] As seen in the fatwa, Akkirmani did not even question the permissibility of the cash endowment. After about a half-century, as a scholar-bureaucrat following the imperial orders, Akkirmani therefore seems to have sided with Ebussuud's camp in the debate. Not only did he rely on the fatwa of the chief mufti in the permissibility of cash endowments, but he also embraced and used sultanic authority to fix its details. It was the amalgamation of Ebussuud's fatwa and Süleyman I's decree that made cash endowments legal and Akkirmani showed conformity with it. As for its details regarding the profit rate, he directly embraced and relied on the sultanic decrees. He thus leaned on the orders of Süleyman I dated 957/1550, 973/1564 and 980/1572. Akkirmani showed his knowledge on the decrees for he cited three different orders respectively, and added lastly that because the successors of Süleyman I kept it and any other opposite decree was not issued, this decree was still valid. He showed that he was aware of the sources of the imperial regulations and his knowledge was up to date and thereby established his imperial authority. This fatwa seems not to be an exception, for Akkirmani issued a quite similar, if not the identical fatwa, referring to the same orders in 1564 and 1572, about loaning the money with 40 percent profit.[18]

In another fatwa about how to tax the share of orphans in the inheritance, Akkirmani mentioned the opinions of the jurists, yet eventually embraced the regulation of the political authority:

> Answer: There is disagreement, the authoritative opinion (*kavl-i müftâ bih*) is quarter of ten which corresponds to 2.5 percent and 25 out of 1000 aspers. The late jurists (*el-ulemâ el-müteahhirûn*) disputed on it. Ebu'l-Hasan el-Kerhi (d. 952), Şemsü'l-Eimme Muhammed b. Sehl es-Serahsi (d. 1090?) and el-Fakîh Ebu'l-Leys (d. 983) said that it is a quarter of ten. The jurist known as Hâherzâde who had fatwa on this issue also held this opinion. Also see in the price of the distributor (*kassâm*) on the Book of Rents (*el-İcârât*) of *el-Hâvi'l-Münye* and on the Book of Distribution (*Kitâbu'l-Kısmet*) of *er-Riâye*, the commentary of *el-Vikâye*. Yet the sultan of the time -may Allah the Almighty makes him permanent and strong- determined it as 15 aspers out of 1000. It is

[17] Jon E Mandaville, "Usurious Piety: the Cash Waqf Controversy in the Ottoman Empire," *International Journal of Middle East Studies* 10, no. 3 (1979): 289-308; Tezcan, *The Second Ottoman Empire*, 30-34.

[18] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 150a.

written in the appointment diplomas (*berevât*, plural of *berât*) of qadis.[19]

Here, Akkirmani first mentioned the authoritative opinion, dispute of the jurists and some of them on the share of the distributor. However, he then finalized his answer with the reference to the rate that was determined by the sultan. It differed from the authoritative opinion, which assigned 25 aspers out of 1000, while the imperial order granted only 15 aspers out of the same. Akkirmani implied the sultanic order to be followed by qadis. In this fatwa Akkirmani did not directly name the date of the decree as in the previous one, yet he referred the appointment diplomas as his source. By doing this he showed his knowledge related to the bureaucratic procedures as well.

Akkirmani's references encompass different types of decrees and expressions implying sultanic authority such as sultanic charters (*berât*s), sultanic rule *(hükm-i sultânî*), sultanic order (*emr-i sultânî* or *emr-i şerîf*), exception of the sultan (*istisnâ-yı sultân*), sultanic permission (*izn-i sultânî*).

Next two fatwas exemplify how Akkirmani used the sultanic authority to restrict the acts of officials. In the first, Akkirmani was asked whether the steward of the state treasury can request to bring the document of testimony from a new resident to claim his brother's inheritance. The mufti issued his fatwa indicating the sultanic authority:

> Answer: He can if there is sultanic rule obliging that those witnesses are not to be listened if [plaintiffs] do not bring document of testimony (nakl-i şehâde) from their hometown. The exception of sultan is lawful and in effect. Otherwise he cannot. After the sound evidence is provided, it is obligatory for the qadi to make his judgment without delay.[20]

Here, we see Akkirmani conditioned bringing the sultanic rule on the table in the face of an official. It is critical to see Akkirmani restricted the acts of the steward to an area that was encircled by the sultanic rule.

In the second one, he was asked whether a qadi's authorization to hear cases continued after he said "I dismissed myself." In Akkirmani's opinion, the authorization

[19] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 179b, 80a.

[20] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 171b-72a.

would continue, because it would not become invalid unless the sultan knew and confirmed his declaration.[21] In other words, it was the sultanic authority that made someone authorized to judge or not. In both examples, Akkirmani cancels or prevents the acts of two officials, the steward in the initial one and the qadi in the second. He based his opinions on the sultans' authority and decrees.

In many fatwas, Ali Akkirmani refers to "the exception of sultan (istisnâ-i sultân)". These expressions can be found in various phrases and forms:

"The exception of the sultan is lawful and in effect"[22] (*İstisnâ-yı sultân şerî ve merîdir*)

"The prohibition and exception of the sultan is binding, reported and lawful"[23] (*Men ve istisnâ-i sultân muteber ve mervî ve şerîdir*)"

"The prohibition and exception of his excellency padishah is binding"[24] (*Pâdişâh hazretlerinin men ve istisnâsı muteberdir.*)

All mean that the exception (*istisnâ*) and prohibition (*men*) of the sultan is lawful (şerî), in effect (*merî*), reported (*mervî*) and binding (*muteber*). Together with mentioning that sultanic exception is binding, Akkirmani frequently adds "qadis are not to judge on the matters on which the sultan put an exception(*Müstesnâda kuzât kadı değillerdir*)." It seems that by "exception," Akkirmani meant that the sultan restricted the general authorization to qadis in that particular issue. Therefore, qadis' authorization was not valid on the matters that the sultan put an exception. In many fatwas, he used this expression to declare the imperial decision on the issue and establish his imperial authority restricting qadis' acts.

For example, in a fatwa on the distribution of the military elite's inheritance and assignment of custodian to their orphans and similar issues, it was said that:

> Question: ... The sultan of the time -may Allah support and eternalize him- entrusted all taxes [about the distribution of the inheritance of the military (*askeri*) class and similar issues] to the chief judge (*kazasker*) and all qadis in their districts (*kazâ*) were excepted from it. While they were not ordered (*müvellâ*) nor appointed (*mukalled*), can they oversee

[21] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 181b.

[22] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 172a.

[23] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169b.

[24] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 176a.

them?

Answer: No they cannot. Qadis are not allowed to judge in exceptions.[25]

Because the imperial center assigned the revenue of these taxes, qadis' authorization to judge was not valid in this particular issue. In these kinds of exceptions, the sultan seems to have had absolute authority and could curb the authorization of the qadis.

In the fatwas of Akkirmani, the exception of sultan especially appears in the situations of rehearing legal cases. He answered many questions about rehearing the cases that had been already judged by other qadis.. Almost in all, Akkirmani stated that rehearing a case after fifteen years had passed without any lawful excuse (*bilâ özr-i şerî*) was forbidden by the exception of sultan (*istisnâ-i sultânî*). Then, mostly, he attached that qadis were not allowed to judge in exceptions ("*Müstesnâda kuzât kadı değillerdir.*"). With this phrase, he meant that normally qadis were authorized by the sultan to hear cases. However, in these exceptional cases that sultanic orders were issued, their authorization was not valid. In other words, their authorization was excepted.

Several imperial commands in 1596 sent to the governor of Raqqa and qadi of Aleppo, the governor and qadi of Niğbolu, qadi of Keskin, qadi of Mihalkara, qadis of Akdağ and Sorgun etc. show that the imperial center was quite careful to ensure that this rule was in force.[26] These commands were issued separately on various cases, however, the common theme and expression almost in all was this:

> ... If this case had not been decided on the basis of law (*şerle fasl olmuş olmayıp*) and did not pass fifteen years, you shall hear the case ...[27]

Akkirmani therefore must have acted strictly:

> Question: Can a case abandoned for fifteen years without any lawful excuse be heard?

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[25] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 178a.

[26] A.DVNSMHM.d., 74/395, 512, 520, 534, 537, 565, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, p. 119, 172, 175, 178, 179, 198.

[27] For example: A.DVNSMHM.d., 74/520, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 171.

> Answer: No it is not. The sultanic prohibition was published. Qadis are not to judge in the prohibited and excepted [issues]. Even if they hear, their judgments will not be valid.[28]

For instance, in a fatwa, when Amr claimed right in his mother's previous husband Zeyd's inheritance, twenty-five years after Zeyd's death, Akkirmani responded that:

> Answer: He cannot [bring it to the trial.] A case abandoned for fifteen years without excuse can be heard only in case there is an exception. Qadis are not allowed to judge on the exceptions (*Müstesnâda kuzât kadı değillerdir*). The prohibition (*men*) and the exception (*istisnâ*) of the sultan is binding (*muteber*), reported (*mervî*) and lawful (*şerî*).[29]

In another, Zeyd and Amr wanted to get marry with the same woman and their dispute brought to the court. The qadi decided that Amr would marry her. "If Zeyd brings the case to another qadi," it was posed, "is it allowed for qadi to hear the case?" Akkirmani answered with "No" and explained:

> No. The sultanic exception is written in the sultanic decrees in general. Qadis are not allowed to judge on the exceptions. Even if he hears and judges oppositely, it is invalid; it is obligatory for him to acknowledge and sign the previous judgment.[30]

There are other similar examples in which Akkirmani brings sultanic exception to the forth and thereby formed a discursive tool to establish his authority based on the imperial orders.[31]

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[28] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 176b-77a.

[29] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169b.

[30] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 176a.

[31] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169b, 74a, 74b, 75a, 75b, 76a, 77a; Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 25a.

4.3.2 References to the Fatwas of Chief Muftis

If sultanic decrees constituted one aspect of imperial authority, the fatwas of the chief muftis formed the other. Chief muftis were also jurists like Akkirmani. Nevertheless, as the state and scholars' relation grew stronger during the mid and late-sixteenth century, authority of the chief muftis' opinions gained imperial significance as well. One may claim that with Ebussuud's initiatives, the institutional aspect of the fatwas of chief muftis became even more distinctive. Therefore, I consider them as a part of the imperial authority.

Examination of copies of *Fetâvâ-yı Akkirmani* indicate how Akkirmani's fatwa collection was perceived later connectedly with other chief muftis. The first ten pages of the copy Hafid Efendi 98 include fatwas of Kemâlpaşazâde, Ebussuud and Hoca Sadeddîn (d. 1599), Sunullâh (d. 1612).[32] Likewise, the copy in İnebey 362 gives place to fatwas of Ebussuud and Bahâî Mehmed Efendi (d. 1654) in the first pages.[33] Some copies give place to Akkirmani's references and cite texts that he referred in margins. By this way, it is possible to see in the margins of copy Hekimoğlu 405 how Akkirmani's fatwas were in communication with those of chief muftis.

Bibliographies found in various copies of Fetâvâ-yı Akkirmani reveal that in the reference parts (*nakil*), Akkirmani frequently referred to different treatises of chief muftis: Zenbilli Ali Efendi's (d. 1526) *Muhtârâtu'l-Hidâye*; Kemâlpaşazâde's *Mühimmâtu'l-Müftî, Şerhu'l-Ferâizi's-Sirâciyye, Şerhu'l-Ehâdîsi'l-Erbaîn, Islâhu'l-Vikâye, Îzâhu'l-Islâh, Tağyîru't-Tenkîh*; Ebussuud's *Tefsîr-i Ebu's-Suûd* and *Ahkâmu'l-Arâzî li-İbn Kemâl Paşa ve li-Ebu's-Suûd*. Though we do not know frequency, still Akkirmani seem to have usually relied on chief muftis' opinions. On the other hand, his mentions in the main texts of the fatwas part seem relatively scarcer. Throughout the nine chapters under my examination, there was only two direct references to the chief muftis' fatwas. However, since this study analyzed a third of *Fetâvâ-yı Akkirmani*, remaining two-thirds of the compilation might include more direct references to the chief muftis in answers.

One of those fatwas that the mufti of Akkirman directly mentioned and evaluated chief muftis' fatwas was his famous cannabis fatwa. In this fatwa, he mainly opposed to Kemâlpaşazâde's opinion. However, while doing this, he again relied on the chief mufti Sadî Çelebi (d. 1539) explicitly and Ebussuud implicitly. We can also refer to Akkirmani's fatwa on the requirement of a legal guardian's permission for marriage in this regard. There is no direct reference to any chief muftis in the

[32] Ali Akkirmani, *Fetâvâ-yı Akkirmani*, Hafid Efendi, 98, Ia-IIa, Süleymaniye Yazma Eserler Kütüphanesi.

[33] Ali Akkirmani, *Fetâvâ-yı Akkirmani*, Haraccı, 362, Bursa İnebey Yazma Eser Kütüphanesi.

answer. Nevertheless, Akkirmani seems to have cited some parts of his answer from Ebussuud's fatwa on the same issue. In the references, on the other hand, he used block quotations primarily from *el-Îzâh ve'l-Islâh* of Kemâlpaşazâde. I will later analyze the fatwas related to cannabis and a legal guardian's permission for marriage in detail in the following pages.

The other one was about an issue related to an endowment of extraordinary taxes (*avârız vakfı*). During the late sixteenth and seventeenth centuries, the Ottoman government frequently levied extraordinary taxes (*avârız*) to compensate expenses of the everlasting wars. They were supposed to be temporal but, in time, proved to be permanent.[34] People sought for solutions to deal with extraordinary taxes and special endowments, particularly intended to provide help with these taxes, emerged.[35]

There is no reason for residents of Akkirman and its environs to be exempted from the seventeenth century realities. The cadastral survey of 1574 enables us to see that the people of Akkirman were imposed extraordinary taxes: "Muslim and non-Muslim residents of the suburb of Akkirman are subject to pay extraordinary [taxes]"[36] Imperial decrees sent to the officials in Akkirman in 1577, 1582 and 1583 also prove that some villages in Akkirman were imposed extraordinary taxes.[37] Therefore one can expect to find extraordinary endowments.

In this setting, it was no surprise that the mufti of Akkirman was asked a question about an extraordinary endowment. According to the question, Hind endowed two thousand aspers for her village's extraordinary taxes. It seems that the tax's temporariness was real for this village: After twenty years, the village became exempted from the extraordinary tax. Meanwhile, Hind and his son Zeyd had been dead by then. The inheritor was Zeyd's orphan child. It seems that because he was a child then, Bekir was appointed as the legal guardian of Zeyd's child. Bekir claimed that his father, Zeyd, died in debt. Therefore, it was asked:

> Question: ... Can Bekir request from qadi to cancel the endowment

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[34] Also, extraordinary taxes made both rural and urban population taxable, for it considered the people subjected to levy, not the land as it was in tımâr. Michael Ursinus, "The Transformation of the Ottoman Fiscal Regime, c. 1600-1850," in *The Ottoman World*, ed. Christine Woodhead (London: Routledge, 2012), 426-28.

[35] Mehmet İpşirli, "Avârız Vakfı," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/avariz-vakfi.

[36] TT. TT.d... 701, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 50.

[37] A.DVNSMHM.d., 31/619, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 279; A.DVNSMHM.d., 46/687, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 301; A.DVNSMHM.d., 52/272, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 110.

and by this money pay Zeyd's debt?

Answer: The valid endowment is what a lawful right has been endowed for the sake of charity eternally, after, it has been delivered to the trustee, it was judged first in terms of its validity (*sahîh*) then bindingness (*lüzûm*). Because the extraordinary tax (avârız) was not legal right, but an imperial extraordinary levy, it is not eternal. It can be dismissed and returned. Therefore, the Chief Mufti İbn-i Kemâl issued a fatwa that the endowment of aspers for avârız and similar taxes—even if they were to be delivered to the trustee and even a qadi passes a judgement for it—is invalid. Though the Chief Mufti Ebussuud permitted it on the condition that it would be allocated to the equipment of the ghazis. Even so, after many difficulties, it would not be an eternalized property for the state treasury as well? In that case, endowment is not true itself. It would be another grave mistake to allocate it to other taxes with the judgment of the qadi. It is like to transfer from the lowest levels of the fire to another one. Even if the endowment would be true in all aspects, it would turn out to be null (*bâtıl*) with the cease of the [allocated] expenditure. In Imam Muhammed's opinion, if the endower is alive it returns to his possession; if he is dead, it returns to the possession of his inheritor. Bukharan school also issues fatwa on the basis of this opinion. Then, how can it be another way if the endowment itself is not true and its allocated expenditure is ceased and the inheritors are in need. Qadi should dedicate it to them, the best would be the inheritors.[38]

The endowment for extraordinary taxes was not a type of endowment that was practiced before the Ottomans. The fatwa reveals that there was a disagreement among the chief muftis. Akkirmani argued that this type of endowment was wrong from the start. Because it contradicts with the two main conditions for endowments to be valid: to be founded for charitable purposes and to be eternal. The former was not true since the extraordinary endowment was a type of imperial taxes, not a pious act whereas the latter also had not met the condition because the extraordinary tax was temporal in nature. He referred to Kemâlpaşazâde first and Ebussuud secondly, and eventually agreed with the former. With a similar reasoning to Akkirmani, Kemâlpaşazâde thought that the extraordinary endowment was invalid even if qadi passed a judgement to its validity. Ebussuud, on the other hand, declared that it was valid if its income was allocated to the expenses of the soldiers. Akkirmani disagreed

[38] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 112b.

with Ebussuud; he claimed that it would not be a solution because allocating it to the expenses of soldiers would not make it permanent and eternal as a state property. He reaches to the conclusion that the endowment for extraordinary taxes was not valid from the beginning. Therefore, to direct its income to other expenses with the rule of qadi would be another dangerous wrong. Then he continues that even if the endowment was valid in all aspects, it becomes invalid when its allocated expenditure became cut off. Then, on the transfer of the endowment property, he brought Imam Muhammed and Bukharan school on the table. Under these circumstances, the endowment would be transferred to the property of the inheritors.

This fatwa of Akkirmani was unprecedent. It shows well how he established his authority relying on the chief muftis and his opposition against an imperially accepted practiced, as a scholar-bureaucrat. Firstly, after he declared his position and arguments against the extraordinary endowment, Akkirmani could have directly engaged with the chief mufti Ebussuud. Nevertheless, prior to his engagement, he referred to Kemâlpaşazâde, to be backed another chief mufti. In other words, he chose to rely on another chief mufti while criticizing one. To challenge an institutional authority, he relied on another one at the same level.

Secondly, the fatwa of Ebussuud that Akkirmani referred was found in *Fetâvâ-yı Ebussuud Efendi*, not in *Marûzât*. Those approved by the sultan were compiled in Marûzât and thereby were binding over the qadis across the Empire. However, his other fatwas compiled in *Fetâvâ-yı Ebussuud Efendi* were not officially approved by the sultan and did not come to be binding opinions.[39] It seems that Akkirmani distinguished Ebussuud's fatwas in this sense. He was in conformity with Ebussuud's fatwas in other debatable cases. For instance, Akkirmani did not open cash endowments to discussion in his relevant fatwas that Ebussuud's fatwa on the issue was found in *Mârûzât*. Likewise, he was in the same vein as Ebussuud in the requirement of a legal guardian's permission for marriage. These examples can be increased. They were in common in the fact that they were presented to the sultan and gained his authority. Nonetheless, Ebussuud's fatwa on extraordinary endowments was in *Fetâvâ-yı Ebussuud Efendi*, not *Marûzât* and thus was not enjoyed the authority of the sultan. Though fatwas in *Fetâvâ* still held the authority of chief mufti, Akkirmani seems to have not regarded them binding, unlike those in *Marûzât*. He therefore must have found them challengeable at the level of scholarship and could establish his own position, albeit still enjoying another authority of chief mufti. This is also the case in the fatwa of cannabis, though in that one the roles change vice versa, opposing the chief mufti Kemâlpaşazâde and positioning

[39] Ahmet Akgündüz, "Fetâvâ-yı Ebussuud Efendi," in *TDV İslam Ansiklopedisi*. https://islamansiklopedisi.org.tr/fetava-yi-ebussuud-efendi.

with the chief muftis Sadi Çelebi and Ebussuud.

One more thing was remarkable on the endowment for extraordinary taxes and Akkirmani's fatwa on it. Akkirmani, as opposed to his general stance, rejected an imperially accepted practice in this fatwa. It seems that starting from the mid-sixteenth century, the extraordinary endowment was considered lawful. Dozens of court records prove that during the late sixteenth and early seventeenth centuries to endow an income of an amount of money or real estate either completely or partially for extraordinary taxes was a widespread way of charity. The earliest example in Istanbul was recorded in Balat court in 1557. Three court records related to extraordinary endowment date back to 1563, again in Balat. From 1585 to 1618, to the death of Akkirmani, there were twenty records found in Istanbul, Galata, Rumeli, Üsküdar and Eyüp courts showing that extraordinary endowments were in practice.[40] In an imperial decree sent to the qadis of Rumelia in 980/1573, it was said that some benefactors (*ehl-i hayr*) allocated some of profits of their endowments to the extraordinary taxes (*avârız-ı dîvâniyye*) of some villages. It was also complained that some qadis tried to prevent this. The decree prevents qadis to interfere and orders that trustees were to administer the endowments.[41] Could these qadis also have thought like Akkirmani on extraordinary endowments? This seems probable. The certain thing was that the center recognized these types of endowments. However, although these endowments were practically in effect, possibly on the basis of Ebussuud's fatwa in *Fetâvâ*, the center did not enforce a certain rule for extraordinary endowments as they did, for example, for cash endowments. In other words, extraordinary endowments were accepted, but not strictly ordered. The aforementioned decree seems to have not gained a permanent and wide character. Therefore, being aware of this legal space, Akkirmani put his

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[40] *İstanbul Kadı Sicilleri Galata Mahkemesi 15 Numaralı Sicil (H. 981 - 1000 / M. 1573 - 1591)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 34 (İstanbul: İSAM Yayınları, 2019), 113, 292; *İstanbul Kadı Sicilleri Galata Mahkemesi 20 Numaralı Sicil (H. 1005 - 1007 / M. 1596 - 1599)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 35 (İstanbul: İSAM Yayınları, 2019), 396, 408; *İstanbul Kadı Sicilleri Galata Mahkemesi 32 Numaralı Sicil (H. 1015 - 1016 / M. 1606 - 1607)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 36 (İstanbul: İSAM Yayınları, 2019), 111, 21, 86; *İstanbul Kadı Sicilleri İstanbul Mahkemesi 3 Numaralı Sicil (H.1027/ M. 1618)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 13 (İstanbul: İSAM Yayınları, 2019), 121, 42, 64, 69, 76, 227, 75, 388, 424; *İstanbul Kadı Sicilleri İstanbul Mahkemesi 191 Numaralı Sicil (H. 1000-1027 / M. 1591-1617)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 44 (İstanbul: İSAM Yayınları, 2019), 166, 285; *İstanbul Kadı Sicilleri Rumeli Sadareti Mahkemesi 21 Numaralı Sicil (H. 1002-1003/M. 1594-1595)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 12 (İstanbul: İSAM Yayınları, 2019), 95, 204; *İstanbul Kadı Sicilleri Üsküdar Mahkemesi 84 Numaralı Sicil (H.999-1000/ M.1590-1591)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 10 (İstanbul: İSAM Yayınları, 2019), 331, 479, 87; *İstanbul Kadı Sicilleri Eyüb Mahkemesi (Havass-ı Refia) 3 Numaralı Sicil (H. 993 - 995 / M. 1585 - 1587)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 22 (İstanbul: İSAM Yayınları, 2019), 120; *İstanbul Kadı Sicilleri Balat Mahkemesi 2 Numaralı Sicil (H. 970 - 971 / M. 1563)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 11 (İstanbul: İSAM Yayınları, 2019), 55, 89, 229; *İstanbul Kadı Sicilleri Balat Mahkemesi 1 Numaralı Sicil (H. 964-965/ M. 1557-1558)*, ed. Coşkun Yılmaz M. Âkif Aydın, vol. 41 (İstanbul: İSAM Yayınları, 2019), 303.

[41] A.DVNSMHM.d., 21/400, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 162.

legal reasoning and own thinking in the force. This might seem contradictory to his general depiction that he represented the existence of the imperial center in terms of imperial law as a scholar-bureaucrat. From Akkirmani's point of view, because there was no general sultanic decree and fatwa backed by sultanic authority, he did not act against the sultanic orders. In other words, he must have seen himself righteous to issue his own opinion in this specific issue. Regarding the fact that, despite the Ottomans' endeavor to accomplish control over the provinces and his subjects, it had still its limits in the early modern period.

To sum up, Akkirmani relied on the fatwas of chief muftis as an element of imperial authority. He consciously brought another chief mufti's opinion if he was to challenge one. Also, in the absence of sultanic decree on an issue, Akkirmani exploited the legal gap to express his own juristic reasoning.

Were all muftis were utilizing imperial authority like Akkirmani? This is a big question to answer, however, the current scholarship demonstrates that he was possibly distinct in his discursive tools. Pîr Mehmed Üskübi, the mufti of Skopje, for example, quite rarely refers to the sultanic edicts in his fatwa collection of *Fetâvâ-yı Üskübi* (also named *Muînü'l-Müftî ale'l-Müsteftî*). It is only for twice that Üskübi mentioned imperial authority in this compilation. The first one was as *izn-i sultânî* (sultanic permission); while the second was to an *emr-i şerîf* dated to 988/1580.[42] Nevertheless, he had a whole separate compilation of fatwas named *Zahîru'l-Kudât* in which he included imperial authority extensively. He referred to laws (*kânun*s), law codes (*kânunnâme*s), imperial decrees (*fermân*s) and sultanic charters (*berât*s) in a number of fatwas. As for the fatwas of chief muftis, their number seems relatively higher both in *Fetâvâ-yı Üskübi* and *Zahîru'l-Kudât*.[43] This preliminary analysis shows that Üskübi also made references to the imperial authority, yet made a distinction between his *Fetâvâ* and *Zahîru'l-Kudât*. Köse's study on Vânî Mehmed Efendi, the mufti of Erzurum between 1657-1661, enables us to make another comparison. Köse states that Vânî Mehmed Efendi never referred to sultanic authority nor to the fatwas of chief muftis. The differences between Akkirmani, Üskübi and Vânî Mehmed Efendi make it difficult to make a generalization. Were there local tendencies? Were there common patterns on the basis of geography? Did their educational background affect their attitude? These questions can only be answered through wider research.

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[42] Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili," 146, 259.

[43] Pir Mehmed Üskübi, *Fetâvâ-yı Üskübi*, Aşir Efendi, 133, Süleymaniye Yazma Eserler Kütüphanesi; Üskübi, *Zahîru'l-Kudât*, Aşir Efendi 133.

4.4 Juristic Authority

Here, I want to look at the ways in which Akkirmani established his own position vis-à-vis Islamic jurisprudential tradition and legal enactments of the current ruling authority. He either confirmed previous opinions or current decrees or differed from them. In all possibilities, even if he followed prevailing opinions, it is significant to determine how he established his position.

Samy Ayoub's discussion about the characteristics of Late Hanafism provides insights into Akkirmani's case. In his *Law and Empire*, Ayoub depicts the engagement of Ottoman jurists with early juristic scholarship in three features:

> Ottoman jurists secured the authority of the late Hanafis through (1) engagement with legal texts written by previous generations of Hanafis, (2) disclosure of the reasoning that underpins late Hanafi legal opinions, and (3) invocation of the principles, authorities, and arguments that construct late Hanafism.

Ayoub also propounds "a set of juristic tools and devices to change, alter, or perpetuate early Hanafi opinions, even those that originated with Abu Hanifa (d. 150/767), the eponym of the school."[44] It seems that Ali Akkirmani's establishment of juristic authority affirms Ayoub's depiction of the Ottoman jurists in relation with the Late Hanafis.

4.4.1 Educational Background

In the Ottoman madrasa system, a student was required to read specific texts determined by the rank of the madrasa.[45] In the highest level of madrasas, students were to read the most authoritative texts to obtain status of novice (*mülâzemet*). In other words, together with the promising bureaucratic career for its graduates, ranked madrasas also offered qualified education. For instance, at *altmışlı* rank which constituted the highest level until the early seventeenth century, *el-Hidâye*

[44] Ayoub defines the late Hanafi legal tradition with the development of "its own distinct identity, opinions, and consensus in relation to early Hanafi opinions." He also features the three key features of Late Hanafism as: "(1) the particular manuals of jurisprudence and fatwā collections that they rely on in their legal scholarship; (2) their regional networks and learning centers; and (3) their relationships with the Ottoman imperial order." Ayoub, *Law, Empire, and the Sultan*, 4-12.

[45] Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 172-74.

of Merginani (d. 1197) for Islamic jurisprudence (*fıkıh*), *et-Telvîh* of Taftazani (d. 1390) for principles of Islamic jurisprudence (*usûlü'l-fıkh*), *Şerhü'l-Mevâkıf* of Cürcani (d. 1413) for Islamic systematic theology (*kelâm*), *Sahîhü'l-Buhârî* of Buhari (d. 870) for the Prophetic tradition (*hadîs*) and *el-Keşşâf* of Zemahşeri (d. 1144) for exegesis of the Quran (*tefsîr*).[46] Ali Akkirmani who obtained his status of novice from a grade of altmışlı madrasa, Valida Sultan, also have read these authoritative texts. It is very likely that the other scholarly figures around him in Akkirman did not have the same level of the education. Thus, Akkirmani's educational background made him competent on the traditional juristic texts, privileged him among his equals and had a significant place in the construction of his juristic authority.

4.4.2 Length of Fatwas

Akkirmani's fatwas differed from the fatwas of the chief muftis in terms of the length of the answers. The latter were known for its briefness, consisting of solely a "*Olur*"(Yes) or "*Olmaz*"(No). Even if there is further explanation, it would not exceed a few sentences. Only in specific matters related to the sultan or the government could the fatwas contain longer answers.[47] Akkirmani's fatwas, on the other hand, are usually longer. Although there are some fatwas where the answer is only "*Olur/Olmaz*," they are very few. In general, an explanation accompanied Akkirmani's "*Olur/Olmaz*." fatwas. Akkirmani's long explanations can be explained in two ways. First, Akkirmani might have needed to establish his authority discussing the different aspects of the issue in relation to the previous opinions, thereby getting the answer long. The chief muftis, however, thanks to their posts, took over institutional authority. Only a "*Olur*" or "*Olmaz*" would suffice to be authoritative. Second, it seems that Akkirmani used fatwa as a place for scholarly discussions. For example, lengths of fatwas on cannabis (*benc*),[48] ablution (*âbdest*),[49] praying recommended units (*rekat*s) of the dawn prayer (*sabâh namâzı*) with congregation,[50] the requirement of a legal guardian's permission for marriage[51] and extraordinary

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[46] Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt*, 41-42; Mefail Hızlı, "Osmanlı Medreselerinde Okutulan Dersler ve Eserler," *Uludağ Üniversitesi İlahiyat Fakültesi Dergisi* 17, no. 1 (2008): 27-39.

[47] Heyd, "Some Aspects of the Ottoman Fetvā," 42.

[48] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 255a-56a.

[49] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 1a.

[50] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 2a.

[51] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 33b-34a.

endowments[52] reach up to one, two or two and a half pages which was equivalent to short scholarly treatises (*risâle*s) in length. Regarding that the chief muftis' fatwas were generally composed of a few words, Akkirmani seems to have used fatwa as short scholarly treatise.

4.4.3 Added References (*Nukûl*)

As an early modern state reflex, to centralize and standardize the law throughout the empire, the Ottomans obliged qadis to base their judgments on the most accurate (*esâhh-ı akvâl*) or authoritative opinion (*kavl-i müftâ bih*). A fatwa of the chief mufti Ebussuud demonstrates it:

> Question: If a qadi who is ordered in his sultanic charter to judge according to the most accurate opinion passes judgement based on the weak opinion, does his judgment become in force? Answer: It does not if it is too weak.[53]

In a similar fatwa, Ebussuud issued that if a qadi not from the great scholars that knew the details of the evidence and rules, his judgment based on an abandoned opinion (*kavl-i mercûh*) was not in force.[54] For this reason, scholar-bureaucrats in the sixteenth and seventeenth century from different posts wrote treatises to let qadis and muftis know those opinions and rule accordingly. Rasul b. Salih el-Aydınî (d. 978/1570), the qadi of Marmara, stated in the introduction of *el-Fetâvâ'l-Adliyye* that he compiled authoritative opinions (*müftâ bih*) opinions for qadis and muftis in accordance with the order of Süleyman I.[55] Üskübi's *Zahîru'l-Kudât* and the chief judge Kadri Efendi's (d. 1674) *Vâkıâtü'l-Müsteftîn* can be mentioned in this regard. It seems that authoritative opinions were binding not only for qadis but foo chief muftis too. In 1592, due to a personal conflict, Bâki Efendi found useful to challenge the Chief Mufti Bostanzâde Mehmed Efendi (d. 1598) for not relying on the texts

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[52] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 112b.

[53] Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri IV. Cilt* (İstanbul: Fey Vakfı Yayınları, 1992), 50.

[54] Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri IV. Cilt*, 50.

[55] el-Aydını, *el-Fetâvâ'l-Adliyye*, 003553, Diyanet İşleri Başkanlığı Kütüphanesi. For an MA thesis on this fatwa collection: Batmaz, "İslam Hukuku Literatüründe Bir Fetva Mecmuası Örneği el-Fetâvâ'l-Adliyye ve Tahlili / A Sample of Fatwa Collection in Islam Law Literature: El-Fetâvâ'l-Adliyye and Its Analysis."

(*mütûn*) and authoritative opinions (*mesâil-i müftâ bihâ*) in his fatwas.[56]

Related with the requirement of following the most authoritative opinions, we learn from Hezârfen Hüseyin Efendi (d. 1691) that at least in the second half of the seventeenth century, provincial muftis were expected to add references (*nakl* or *nakil*, pl. *nükûl*) to their fatwas:

> The chief muftis would not write references (nukûl) like provincial muftis (*kenar müftileri*); they "write yes or no" as the poet said."[57]

The term *nakil* indicates the verbatim or summary quotations and sometimes paraphrases from the authoritative texts. By including *nakil* at the end of the answer, the muftis principally aimed at demonstrating their sources for the ruling and also providing justification for the reasoning.

The chief muftis were exempted from it, though some collections of their fatwas included *nakil*s.[58] Though we do not know exactly when was the practice of including nakils started, we have evidence that it had become an engrained practice by the late sixteenth century. Uriel Heyd cites a court record in Balıkesir in 1594 sent to the qadi of the town and the provincial mufti. The mufti, who was also a professor, issued his fatwas solely with "yes" or "no"s without added references. Because he did not show his sources, qadis hesitated to base his judgments on his fatwa. The imperial center hence warned the mufti to cite his references.[59] Probably again during the 1590s, the chief mufti Bostanzâde Mehmed Efendi's (d. 1598) fatwa also indicates that the imperial center dictated the provincial muftis to add references:

> Question: While provincial muftis were ordered to write added references, if some of them write "Yes" or "No" imitating the mufti of the

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[56] "Ekser, virdüğü fetvâlar, mütûna muhâlif olup, mesâil-i müftâ-bihâya musâdif degüldür." Hasan Bey-zâde Ahmed Paşa, *Hasan Bey-zâde Târihi Metin (926-1003/1520-1595) Cilt II*, ed. Şevki Nezihi Aykut (Ankara: Türk Tarih Kurumu, 2004), 371. Based upon this, Guy Burak infers that "the authoritative texts reflect the sound opinions of the Hanafi school at the time." Burak, *The Second Formation of Islamic Law*, 130.

[57] "Ve meşâyih- islâm kenar müftîleri gibi nukûl yazmayup, ancak şâ'ir didüğü gibi "olur olmaz yazar." Allâhu a'lem, Ebussu'ûd Efendi'den gayri ekser müftîler mesâ'il-i fıkhiyyeden gayriye nâdir yazup, husûsan müte'ahhirîn mesâ'il-i fıkhiyyeden ekser mu'âmelâta hasr eylemişlerdir." Hezârfen Hüseyin Efendi, *Telhîsü'l-Beyân fî Kavânîn-i Âl-i Osmân*, ed. Dr. Sevim İlgürel (Ankara: Türk Tarih Kurumu Basımevi, 1998), 200. For detailed information about nakils see: Şükrü Özen, "Genel Özellikleri Açısından Osmanlı Fetva Mecmûaları " in E*ski Türk Edebiyatı Çalışmaları VII Mecmua: Osmanlı Edebiyatının Kırkambarı*, ed. Hatice Aynur vd. (İstanbul: Turkuaz Yayınları, 2012), 325-60.

[58] Emine Arslan, "Osmanlı Dönemi Nukûllü Fetva Mecmuaları ve Özellikleri," in *Osmanlı Hukukunda Fetva* (İstanbul: Klasik Yayınları, 2018), 167-74.

[59] Heyd, "Some Aspects of the Ottoman Fetvā," 44-45.

time and do not write added references, and when he is wanted [to write them], he says "I issued fatwa based on my own opinion," what does the mufti legally deserve?

Answer: He needs to be dismissed and avoided. In this vein: Can the opponent legally require references?

Answer: Yes. [60]

As it was a binding over all provincial muftis, Akkirmani was also to provide references at the end of his fatwas. The overwhelming majority of fatwas in *Fetâvâ-yı Akkirmani* had references, only a few were issued without them.[61] References were written in Arabic whereas the main body of the fatwa, the question (*mesele*) and answer (*cevâb*) parts were in Turkish. In general, it can be inferred that Turkish part was for questioner (*müsteftî*) and references in Arabic were for more scholarly audience. Akkirmani's style of references varied. In some cases, before giving reference to the texts, he preferred to continue his discussion in Arabic within references. In addition to added references, which can be classified as the end-text reference, Akkirmani frequently made his references also during the Turkish part of the answer. In other words, Akkirmani effectively involved scholarly references both in-text and end-text formats which made his reasoning justified and created an important element for his authority.

References could be in various forms. He could provide a direct quotation and make a mixed reference from different parts of books. In that case he would write "Some of them from the chapter of prayer of *Gunye* and some of them from chapter of fixed penalties of *Hizânetü'l-Fetâvâ* and some of them from the chapter of prayer of *Dürer* and *Hâvi'l-Kudsî*."[62] He could prefer to quote directly a part of a text or paraphrase it. He could combine both, or even, talk himself between the lines.

In-text references were different from added references in the sense that they did not place at the end of fatwa and were primarily in Turkish. In other words, they were a part of the main body of answer. The mufti could indicate different opinions either by text or author, as blockquote or paraphrase. For example, praying recommended units (*rekat*s) of the dawn prayer (*sabâh namâzı*) with congregation, Akkirmani

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[60] Esra Bembeyaz, "Şeyhülislam Sadi Çelebi'nin (Ö. 1539) Yapışdırma Fetva Mecmualarının Değerlendirilmesi" (MA Thesis, 29 Mayıs Üniversitesi, 2019), 42.

[61] It seems that fatwas without nukûl were generally placed in the chapter of *Mesâil-i Şettâ*. For these fatwas: Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 148a, 48b, 49b, 50b.

[62] "Baduhû min salâti'l-Gunye ve baduhû min hudûd-i Hizânetü'l-Fetâvâ ve baduhû min salâti'd-Dürer ve'l-Hâvî'l-Kudsî" Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 2b.

made an elaborate discussion engaging with various Hanafi scholars. Initially, he mentioned the opinions of the founding fathers of Hanafi school, Ebu Hanife, and his disciples, Imam Muhammad and Ebu Yusuf clarifying the disagreement among them. Then, he falsifies wrong practices of his time by ignorant people relying on the consensus of the scholars and stating that this is from the well-known issues of the authoritative texts (*mutûn*) and commentaries (*şurûh*). Afterwards, he engages with later scholars such as Imam Muhammed bin el-Fazl el-Buhârî (d. ?), Imam Zâhid el-Attâbi (d. 1190), Imam Zahîru'd-dîn el-Mergînânî (d. 1197), Necmeddin-i Allâme (?) and some authoritative scholars (*bazı meşâyıh*). He discussed their varying opinions making explanations and comments. Moreover, he also invokes the names of some texts such as *Ziyâdât*, *Fetâvâ-yı Sayrafiyye* and *Gunyetu'l-Mutemellî* making direct quotations in Arabic. After all given opinion and references, he finalizes the answer indicating the clear path (*pes tarîk-i vâzıh*) and the reliable (*mutemed bihî*) [opinion] as the firstly mentioned one.[63]

In another fatwa on waqf, we see Akkirmani includes solely the founding fathers' opinions in Turkish part, namely Ebu Hanîfe, Imam Muhammed and Ebu Yusuf and direct qadi to that of Imam Muhammed's. In the part of added references (*nakil*), on the other hand, he refers to the chapter of endowment (*kitâbu'l-vakf*) sections of *İhtiyâr*, *ed-Dürer ve'l-Gurer*, *Tecrîdu'l-Hidâye*, *Hızânetü'l-Fetâvâ*, *Mültekâ* and other books.[64] Again a fatwa on waqf is discussed on the basis of the opinions of the three founding fathers and it is submitted that the authoritative opinion (*müftâ bih*) was that of Imam Yusuf's.[65] In another, Akkirmani pronounces the authoritative opinion on waqf is that of Imam Yusuf's once more. However, he differentiated the presented case from Imam Yusuf's opinion. In added references, he refers to waqf sections of ed-Dürer and *Cevâhiru'l-Fetâvâ*.[66]

In the aforementioned fatwa on the obligatory acts (*vâcib*s) of ablution (*âbdest*), Akkirmani takes Turkish part considerably shorter than Arabic part with only unglorifying his opponents by saying that "Those scholars are scholars of entertainment (*âlim bi-eyyâmillâh*), an expert scholar would not say such a thing," then turns to Arabic in added references. Here, he evidently bases his opinion on the late scholars: *Mukaddime fi's-Salât* of Ebu'l-Leys es-Semerkandi (d. 373/983), its commentary *et-Tavzîh* [of Muslihuddin b. Mustafa b. Aydoğmuş (d. 809/1406)], *Şerhü'l-Menâr* of

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[63] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 2a-2b.

[64] " ... Kadı İmâm Muhammed kavli üzere beyî tecvîz edip sıhhatine hükm ederse kâdir olur. Min vakfi'l-İhtiyâr ve'd-Dürer ve'l-Gurer ve Tecrîdi'l-Hidâye ve min fasli fî fi'l-mescid min vakfi Hızânetü'l-fetâva ve min vakfi'l-Mülteka ve gayrihâ." Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 109b.

[65] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 112a.

[66] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 116b.

İbn Melek (d. after 821/1418), *et-Tavzîh* the commentary of *et-Tenkîh* [of Sadru'ş-Şerîa (d. 747/1346)], *Munyetu'l-Musallî* [of Kaşgârî (d. 705/1305)] and its gloss *Muhtasaru Gunyetu'l-Mutemellî* [of Halebî (d. 956/1549].[67]

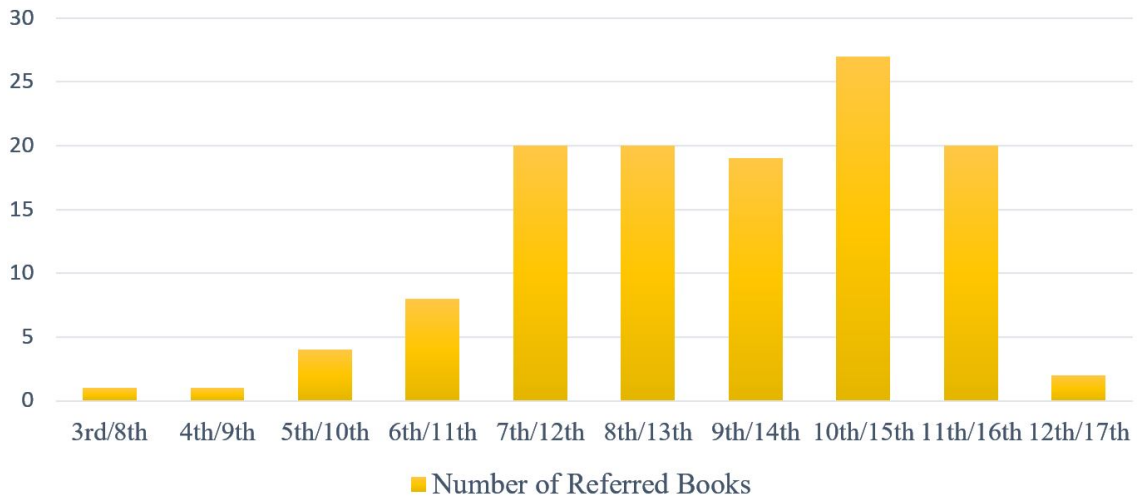

Figure 4.1 Periodical Distribution of References of *Fetâvâ-yı Akkirmani*

This graphic is drawn from the list of nukûl that is found at the first pages of Veliyyüddin Efendi 1970 copy with the title "The Names of the Books that were Cited."[68] Other four copies provide identical or similar bibliographies too. According to these lists, Akkirmani gave references to 131 or 135 different sources.[69] These books were mentioned by Akkirmani at least once in *nakil* part. It is important to note that there is no frequency information. The books and the opinions that Akkirmani relied on were within the Hanafi jurisprudential tradition, with only three exceptions: the Shafii texts, *Meâlimu's-Sünen*, *Şerhu's-Sünne* and *Râfiî*.

As it is obviously seen in the diagram, books written in the period of "Late Hanafism" are predominant among all. While there are 14 books from the eight until the end of the eleventh century, from twelfth to the sixteenth century the number of referred books reaches up to 106. The greatest number of mentioned books (27 books) is from the fifteenth century. It is also noteworthy that the number of books from twelfth, thirteenth, fourteenth and sixteenth are distributed interestingly balanced

[67] Akkirmani, *Fetâvâ-yı Akkirmani*: Ib-1a.

[68] "*Esâmî'l-kütübi'lletî vakaa minhâ'n-nakl.*" Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: Ib.

[69] VE1970 and MS65 copies have the same title and list with the number of 131. Millet4392 and İzmir420 copies add four more books at the very end of the list reaching total number to 135. The copy of DIB580 had mostly the same books with a different order organizing them according to their fields, though without giving a total number. For a more detailed survey of this list: Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili," 19-26.

20, 20, 19, 20 respectively.

References were indeed more than imitation of the past opinions. Which texts he chose, whom he relied on and how he made texts speak include more than clues about one's position. Added references served imperial purposes as a checking mechanism over provincial muftis that they were not follow other opinions. By this way, the imperial center aimed at creating a standardized law both in the center and province. In return, Akkirmani used added references masterfully to construct his authority.

4.4.4 Juristic Methods and Tools

Overall in his fatwas, Akkirmani actively operates the instruments within the methodology of Islamic jurisprudence. In Hanafi school of law, scholars would base their interpretations and reasoning on the four main sources of the Islamic law (*el-edille eş-şeriyye*): Quran, Prophetic tradition, consensus (*icmâ*) and analogy (*kıyâs*).[70] Akkirmani frequently provided base for his arguments from the Quranic verses, also gave place the sayings of the Prophet either directly quoting or paraphrasing. Furthermore, he operated the consensus often as well. He used the expressions such as "it is not permissible with consensus," "it is forbidden with the consensus of our scholars," "it becomes valid and binding with consensus."[71] He does not use analogy (*kıyâs*) as much. Still, Akkirmani refers to it with expression as "the analogy is this" or as denying the opinions derived from analogy.[72] Other than these, Akkirmani utilizes juristic preference (*istihsân*), continuity (*istishâb*), public welfare (*mesâlih-i âmme*) as methods within Hanafi madhhab as well.[73]

Legal maxims (*kavâid-i külliyye*), crystallized principles of Islamic law, occupied a significant place in Akkirmani's fatwas. As a genre in Islamic jurisprudence, the sixteenth century was a systematization period for treatises written for legal maxims as a genre in Islamic jurisprudence. Ibn Nüceym's (d. 1563) *el-Eşbâh ve'n-Nezâir*, which Ali Akkirmani refers frequently, was of importance for Hanafi legal maxims tradition.[74] While he constructed his juristic reasoning, the legal maxims of Islamic

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[70] N. Calder, "Sharīa," in *Encyclopaedia of Islam, Second Edition*, ed. Th. Bianquis P. Bearman, C.E. Bosworth, E. van Donzel, W.P. Heinrichs (Brill, 1979); Hallaq, *An Introduction to Islamic Law*, 17-24.

[71] "*bi'l-icmâ câiz değildir*," "*bi-icmâ-i ulemâinâ harâmdır*," "*bi'l-icmâ sahîh ve lâzım olur*," "*bi'l-ittifâk bâtıl olup*" Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 9b, 115b, 95b.

[72] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 170a, 242a.

[73] Coşkun, "Akkirmânî Ali Efendi (Ö. 1028/1618)'nin Nikah ve Talak ile İlgili Fetvaları," 26-28.

[74] Necmettin Kızılkaya, *Legal Maxims in IslamicLaw: Concept, History and Application of Axioms of Juristic Accumulation* (Leiden: Brill, 2020), 147-63.

law occupied a central position to the extent that they constituted a kind of juristic discourse in the sentences of Akkirmani. Some of them can be cited as:

"It is not permissible for the oppressed to oppress others."[75] "The recognized matter (marûf) is regarded being a contractual matter (meşrût) and the condition of the endower is regarded binding and in force as the text of the Legislator."[76] "The act of the free doer is not related to others."[77] "The essential in something is to be left it as it was" [78] "The present consensus cancels the former dispute."[79]

Although not so common in the fatwas formed as question and short answer, references to these legal maxims were found before in *Fetâvâ* genre.[80] Therefore, it is not to claim that Akkirmani put this in use for the first time. However, regarding his frequency of use, one can at least put forward that these principles had a crucial place for his juristic authority.

We can see how Akkirmani successfully applied these instruments in his cannabis fatwa. One of his main arguments that its prohibition was agreed by the consensus (*icmâ*). He also instrumentalized a legal maxim that the later consensus cancels the early dispute (*İcmâ-yı lâhık hilâf-ı sâbıkı ref eder*). Another general principle was also implicitly in operation, which was the change of the rulings basing on the change of time. He implied that the former permission needed to change, because in our times (*fî zamâninâ*) it is not used for the sake of cure as it was before.

4.4.5 Utilization of Various Disciplines

Thanks to the list in DIB580 copy, we are able to see the overall picture of Akkirmani's various sources. The books are classified with the subheads of exegesis of Quran (*tefsîr*), the tradition of the Prophet (*hadîs*), principles of Islamic jurisprudence (*usûl*), texts (*mutûn*) and glossaries (*şurûh*), books of fatwa (*fetâvâ*), books

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[75] "Zulm olunan gayra zulm etmek câiz değildir." Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 112b-13a, 20a.

[76] "Marûf meşrût gibidir ve şart-ı vâkıf nass-ı şâri gibi muteberdir ve merîdir." Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 108b, 17a, 21a.

[77] "Fâil-i muhtârın fiili gayra muzâf olmaz." Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 149b, 212a, 30a.

[78] "Aslun mâ-kâne bekâen alâ mâ-kâne." Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 210a, 26a.

[79] "İcmâ-yı lâhık hilâf-ı sâbıkı ref eder." Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 256a.

[80] Kızılkaya, *Legal Maxims in IslamicLaw: Concept, History and Application of Axioms of Juristic Accumulation*, 266-73.

of language (*kütübi'l-lüğat*), inheritance law (*ferâiz*) and various branches (*şettâ*). The greatest shares are sliced between the books of fatwas, texts and commentaries. The books of *mutûn* (authoritative texts of the Hanafi school) and *şurûh* (commentaries) had a great number in the list. In addition to this, unlike any other books, the books of texts were also given as separate subheads under which their commentaries written, which are *Vikâye, Kudûrî, Hidâye, Muhtâr, Kenz[u'd-Dakâik], Vâfî, Nukâye, Mecmau'l-Bahreyn, Manzûme-i Nesefiyye, Manzûme-i İbn Vehbân, Mukaddime-i Ebu'l-Leys, Münyetü'l-Musallî.* Also, the number of commentaries is far more than the texts that they were written on. This explains the tendency towards to the late centuries in the graphic.

Another distinguishable characteristic of this bibliography is its variety in terms of employing different sciences and sources. This demonstrates that the mufti of Akkirman's scholarship was not merely full of jurisprudential sources. He also consulted with other branches such as the principles and language. Also, the book of *Hayâtü'l-Hayevân* (The Life of the Living Creatures), an encyclopedia of animals written by Demîrî (d.808/1405), is a great example of it.[81]

Can we make of these tendencies in a larger context? Ömer Faruk Köse in his MA thesis analyzes the fatwa collection of another seventeenth century provincial mufti, Vânî Mehmed Efendi (d. 1685), the mufti of Erzurum between 1657-1661. Köse devotes a significant place for the references of Vani Mehmed Efendi and their comparison with other contemporary fatwa collections by means of the studies in the literature such as *Fetâvâ-yı Üskübî* of Pîr Mehmed Efendi (d. 1611), *el-Fetâvâ'l-Ahmediyye el-Mustariyye* of Ahmed el-Mustârî (d. 1776), the bibliographies of the chief mufti Minkârizade Yahyâ (d. 1678) and the Palestinian mufti Hayreddin b. Ahmed er-Remlî (d. 1671), *Fetâvâ-yı Ali Efendi, Fetâvâ-yı Feyziyye, Behcetü'l-Fetâvâ* and *Netîcetü'l-Fetâvâ, el-Ecvibetü'l-Kânia* of Mehmef Fıkhî el-Aynî (d. 1730 or 1735), *Bahru'l-Fetâvâ* of Kadızâde Muhammed Arif (d. 1759). As a result of this analysis and comparison, Köse's main findings which are in common for all fatwa collections can be compiled in four articles: (1) The considerable geographical tendency in terms of referred scholars' region towards Transoxiana other than Iran, Syria, Egypt and Anatolia (2) The periodical distribution, preference of the commentaries (*şurûh*) to the main texts (*mutûn*) (3) No references to the chief muftis until the eighteenth century.[82]

Köse's findings seems compatible with Ali Akkirmani's case as well. As it was

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[81] Cevat İzgi, "Hayâtü'l-Hayevân," in *TDV İslâm Ansiklopedisi* (TDV İslâm Araştırmaları Merkezi). https://islamansiklopedisi.org.tr/hayatul-hayevan.

[82] Köse, "The Fatwa Collection of an Provincial Mufti Vani Mehmed Efendi (D. 1685)," 111-15.

mentioned, Akkirmani's sources were mainly from the books written after twelfth century. Accordingly, texts and commentaries occupied the main trajectory together with the books of fatwa. As for the geographical distribution, as a general observation, the books in the bibliography seem to belong to the scholars of Bukhara-Transoxiana as Köse suggested. As for the third article, however, Akkirmani totally differentiated from the general trend. We saw that Akkirmani engaged with the fatwas of chief muftis in the answer and added reference part frequently. More than that, sultanic orders were also mentioned numerous times in Akkirmani's fatwas, though any of them could not find place for themselves in added references. This might indicate that despite the amalgamation of fatwas and sultanic orders in the answer parts, the added references were still autonomous for the scholarship. Nevertheless, because we lack the information about which book was referred how frequently, these inferences cannot go beyond an overall observation.

4.4.6 Imperial and Juristic Authority Combined: Founding Jurisprudential Basis for the Sultanic Decree About the Requirement of a Legal Guardian's Permission for Marriage

After we saw how Akkirmani established his imperial and juristic authority, we can know examine a striking case. In his fatwa related to the permission of custodian for marriage, as a scholar-bureaucrat entrusted with a provincial muftiship, Akkirmani seem to have provided a juristic basis for the imperial order.

According to the opinions of Ebu Hanife and Ebu Yusuf within Hanafi school, the marriage of a reasonable and mature (*âkile ve bâliğa*) woman is valid. On the contrary, Imam Muhammed puts forward that the permission of the legal guardian is also a condition for the marriage to be valid. According to the authoritative books, *el-Hidâye* of Merginani (d. 1197), *ed-Dürer* of Molla Hüsrev (d. 1480) and *el-Mültekâ* of Halebî (d. 1549), the former opinion permitting marriage of the reasonable and mature woman without legal guardian's permission was regarded as the authoritative one.[83]

We learn from Ebussuud's fatwa that in 951/1544 the Ottoman center intervened in this issue with a decree (*emr-i şerîf*) making permission of the legal guardian obligatory.

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[83] Ebü'l-Hasan Burhaneddin Ali b. Ebî Bekr Merginani, *el-Hidâye Şerhu Bidâyeti'l-Mübtedi*, 4 vols., vol. 2, ed. Hafız Aşur Hafız Muhammed Muhammed Tamir (Cairo: Dâru's-Selâm, 2000), 474-77; Mulla Khusrau, *Durar al Hukkam*, 2 vols., vol. 1 (Beirut: Dar Sader, 2018), 527; İbrahim el-Halebi, *et-Ta'likü'l-Müyesser ala Mülteka'l-Ebhur* (Beirut: Müessesetü'r-Risâle, 1989), 243; Fahrettin Attar, "Nikâh," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/nikah.

> Answer: In 951, qadis were ordered not to accept marriage without the permission of a legal guardian.
>
> In this vein: If a qadi (*hâkimu'l-vakt*) judges based on saying that "Narrations and opinions in this issue are different. I can act according to the other opinion and judge validity of the marriage," does his judgement become in force?
>
> Answer: It is prohibited and is never permissible. Because the representation of qadis emanates from the permission and authorization of the owner of the caliphate (*sâhib-i hilâfet*). They are both ordered to judge in accordance with the soundest opinion and prevented from dispute. In particular, corruption of the time is obvious. All of them are thirty-two copies. Other than that, the original copy of the decrees (*evâmir-i şerîfe*) are preserved and copies of it written in the courts of the three cities (*bilâd-ı selâse*) to deter and avoid on this issue. The corruption of it even more apparent than the sunlight and if its one side perishes, many houses would devastate.[84]

As it is seen, Ebussuud referred to the sultanic decree in 1544 and puts the corruption forward as the reason for this new regulation. Nevertheless, he did not discuss the issue at the juristic level. It was a provincial mufti, Ali Akkirmani, who explained and showed the juristic justification of the decree.

Akkirmani has two fatwas related to the requirement of the permission of a legal guardian for marriage in his *Fetâvâ*. In the first, he was posed the question that whether mature and reasonable Hind requires his father's permission for the marriage. Akkirmani answered:

> Answer: In our times, the marriage is not permissible without the permission of the legal guardian. The fatwa [is given] on the basis of Imam Ebu Hanîfe['s opinion] through the narration of Imam Hasan. The issue is written in the chapters of the book of marriage (*kitâb-ı nikâh*) of *Kâfî*, Zeylaî, *Nukâye*, *Vikâye* as well as in the commentaries of *Dürer, Hâniye* and other authoritative [books].[85] In the year 951/1544 qadis were or-

[84] Şeyhülislam Ebussuud Efendi, *Ma'ruzat*, ed. Pehlül Düzenli (İstanbul: Klasik, 2013), 73, 74.

[85] Akkirmani gives books with its known abbrevation or author's name. Further information related to books can be given as: *Kâfî* [of Siğnâkî (d.1314)], [*Tebyînü'l-Hakâik* of] Zeylaî (d. 1314), *Nukâye* [of Sadru'ş-Şerîa es-Sânî], *Vikâye* [of Sadru'ş-Şerîa el-Evvel], commentaries, *Dürer* [of Molla Hüsrev (d. 1480)], *Hâniye* [of Kâdîhan] and other authoritative [books].

> dered to not officiate marriages without permission of the legal guardian and to act carefully. They were strictly ordered not to act against it. Its rule is still valid. No contrary order canceling it existed till now.[86]

The question was about a mature woman marrying a man without her legal guardians' permission. As it is seen, Akkirmani expresses invalidity of the marriage without hesitation. He refers first the narrative roots of the rule, then gives references to Islamic jurisprudential tradition and concludes with the imperial authority.

The second fatwa on this issue is more elaborate. The question is almost identical, yet the answer differs with the scholarly discussion in the part of reference. The answer consists of three main sections. Firstly, he directly identifies his jurisdiction that permission of the legal guardian was required and refers to the imperial authority. In the second part wherein he turns to Arabic, he establishes the jurisprudential basis for the sultanic decree. Then, in the conclusion, he gives further information about sultanic decree and ends with imperial authority. It was posed that:

> In this vein: If mature Hind gets married with Zeyd with her own consent, yet her legal guardians do not permit to this contract, does the marriage become permissible?
>
> Answer: It does not become concluded (*münakid*), it becomes null (*bâtıl*). Even if Zeyd divorces her, it does not become real and if one of them dies the other does not inherit. In our times, this is the authoritative opinion (*kavl-i müftâ bih*) and qadis are ordered to judge in accordance with it.

How did this opinion come to be the authoritative opinion? The main question and answer part of the fatwa was in Ottoman Turkish. Afterwards, the mufti turns to Arabic in the reference part (*nakil*). In that section, Akkirmani justifies the imperial decision which changed the authoritative opinion. He firstly gives a block quotation from *Fetâvâ* of Kâdîhan (d. 1196):

> The custodian is one of the conditions of validity of the contract (*sıhhati'l-akd*) for children, madmen and slaves. [The jurists] disagreed

[86] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 23b.

> in the case of the mature and sensible woman when she got married herself.

Akkirmani continues quotation in which he mentions opinions of Imam Muhammed eş-Şeybâni (d. 805) from narrations of his two disciples: Ebu Süleyman [el-Cûzcâni] (d. 816) and Ebu Hafs [el-Kebîr] (d. 832). In the narration of the former, Imam Muhammed briefly said that "Her marriage is null (*bâtıl*)." According to that of the latter, Imam Muhammed pust forth that:

> It becomes valid if she had no legal guardian. If she had a legal guardian who permits the marriage, then, the marriage becomes valid; if he does not permit it, it becomes null regardless of whether the husband is equal or not. Yet if he is equal, the qadi renews the marriage, otherwise, without renewal, she does not become permissible for his husband.

After that, primarily based on Kemâlpaşazâde's *el-Islâh ve'l-Îzâh*, Akkirmani makes reference to Imam Şâfii (d. 820) and Imam Mâlik (d. 795). Both jurists declared invalidity of the marriage by the expression of a woman that "I married myself" or by [the acts of] her mother or any other woman. Next, Akkirmani quotes two opinions of Ebu Hanife through his two disciples, Imam Muhammed (*zâhiru'r-rivâye*[87]) and Hasan b. Ziyâd (d. 819). According to the former (*zâhiru'r-rivâye*) Ebu Hanife said that:

> The marriage is valid whether the bride is virgin or widow or married herself with an equivalent [broom] or inequivalent. However, when he is not equivalent, the custodians have right to object.

Based on the latter disciple of Ebu Hanife, he said:

> The marriage is valid if [the groom] is equivalent. If he is not equivalent, it is never valid.

As it is seen, in Imam Muhammed's narration, Ebu Hanife accepts the validity of

[87] Zâhiru'r-Rivâye is the common name of Imam Muhammed's treatises. It comprises the opinions of three founding fathers of Hanafi school, Ebu Hanife, Imam Muhammed and Ebu Yusuf. Eyyüp Said Kaya, "Zâhiru'r-Rivâye," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/zahirur-rivaye.

the marriage even if he recognizes the right of the custodian to bring the marriage to the court in case of inequivalence. In Hasan b. Ziyâd's narration, nevertheless, in case of inequivalence the marriage never becomes valid. In other words, he seems to have left a door open in the former, yet strictly closed it in the latter. Then, as far as I could determine, it seems that it was Akkirmani who took the word:

> The chosen [opinion] in our times (*el-muhtâr fî zamâninâ*) for fatwa is the narration of Hasan. Because all legal guardians are not capable of bringing the case to the qadi nor all qadis are just. The most precautious [act] would be to close the door of marriage if there is inequivalence.

Akkirmani prefers the narration of Hasan b. Ziyâd, for it targets preventing the marriage without the custodian's permission before it comes to existence. In other words, he chooses the opinion of Ebu Hanife that was in accordance with the sultanic order and loads it the characteristic of "the today's chosen opinion." Even if we assume that this passage does not belong to Akkirmani, his giving place to the opinion opposing the pre-Ottoman authoritative opinion (*müftâ bih*) and highlighting it is important itself for this fatwa. After that, Akkirmani mentions his main sources until now, the first section in the chapter of marriage (*el-bâbü'l-evvel min nikâh*) from *Fetâvâ-yı Kâdîhan* and the section of the custodian and equivalence in the chapter of marriage (*bâbi'l-veliyy ve'l-küfüvv min nikâh*) of *el-Islâh ve'l-Îzâh*.

In the second part of his references, Akkirmani furthers on the issue of equivalence. Again, making a block quotation from Kemâlpaşazâde's *el-Islâh ve'l-Îzâh*, he mentions Ebu Hanife's opinion from the narration of Hasan b. Ziyâd (d. 819) and Ebu Yusuf. Kemâlpaşazâde also states that later, Imam Muhammed returned on the opinions of Ebu Hanife and Ebu Yusuf which suggested non-permissibility (*adem-i cevâzihî*), because there were many incidents which custodians could not bring the case to the court. After Akkirmani cited Kemâlpaşazâde's sentences where the latter sorted his sources such as Kâdîhan and *Muhtârâtu'n-Nevâzil* of Mergînâni and stated that "because it [this opinion] is the most precautionary one." Then, Akkirmani takes the word again and refers to two other sources as well, *en-Nukâye* of Sadru'ş-Şerîa (d. 1346) and *Dürer* of Molla Hüsrev (d. 1480). In this part, Akkirmani strengthened his claim, thereby that of the sultanic decree in the jurisprudential basis, on how it was not suitable to let marriages without custodian.

After discussing the issue at the level of jurisprudence, Akkirmani turned back to sultanic decree. In this part, he turns to Ottoman Turkish and gives further information about the sultanic decree that he has already been referred above:

> Qadis were ordered in 951/1544 to not officiate marriages without permission of a legal guardian and to be careful and they are strictly ordered not to act against it. The original copy of the sultanic decree (*emr-i şerîf*) is preserved in the courts of the three cities (*emsâr-ı selâse*[88]) and its rule is still valid. No contrary order canceling it existed till now.[89]

Akkirmani started his fatwa in Ottoman Turkish and declared regulation from the center of the Empire, where he employed imperial authority. The authoritative opinion (*müftâ bih*) until the sultanic decree was that of Ebu Hanife and Ebu Yusuf's, which recognized the right of a mature woman to decide the marriage for her own. However, in 1544, the imperial authority chose Imam Muhammed's opinion which was the opposite. Akkirmani changed the authoritative opinion (*fî zamâninâ kavl-i müftâ bih budur*) in accordance with the imperial authority. Thereafter he included quotations from various jurists about the issue of marriage without legal guardian's permission in Arabic part. He seems to have aimed at highlighting the opinion that rejected the right of woman to decide her own marriage and mentioned why letting this would have caused problems. It was true that if there was inequivalence between the groom and bride, custodians could bring the marriage to the qadi. However, according to Akkirmani, many custodians could not have chance to bring it to the court. Even if they did, not all qadis would decide justly. Therefore, he claims, the best and careful option is to prevent the marriage from the beginning. In the following citations he supported his claim. In this part, in other words, he established the jurisprudential basis for the sultanic decree. Then, he gave further information about the sultanic decree. He gave the date of it, where its original copy was found and informed that it was still valid today.

This fatwa demonstrates Akkirmani's attitude towards the imperial and juristic authority and how he interpreted the Ottoman law at the late sixteenth century. He firstly refers to the imperial authority, then justifies it on the basis of Islamic jurisprudence and hence employs juristic authority. Then he refers back to the imperial authority as well. As a scholar-bureaucrat and a provincial mufti, he both used imperial and juristic authorities effectively. Not only did he utilize them, but he provided imperial decree as a basis within Islamic jurisprudence. In fact, the chief mufti Ebussuud had already issued fatwas on this issue through which the imperial authority became intertwined with juristic authority. However, Ebussuud's

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[88] *Emsâr-ı Selâse* refers to the three Ottoman capitals of Istanbul, Edirne and Bursa. Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy*, 53; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 177.

[89] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 33b-34a.

fatwa did not include any details at the level of scholarship, thereby his jurisdiction included institutional authority more than scholarship. It was Akkirmani, who brought scholarly justification to the issue. Moreover, in fact, Akkirmani cited a former chief mufti's treatise, Kemâlpaşazâde's *el-Islâh ve'l-Îzâh*, but did not mention his name. When Kemâlpaşazâde wrote it, the sultanic order had not been decreed. Akkirmani directly related himself with the sultanic decree and did not refer to Ebussuud's fatwa. It is quite unlikely that he was unaware of it. In this example, he might have not needed to rely on chief mufti to establish his imperial authority. Or rather, we can speculate, compatible with the current imagination of the late sixteenth century Ottoman law in the literature, Akkirmani did not attribute a big difference between sultanic decree and the chief mufti's fatwa.

What can we infer from this fatwa? He shows again that his knowledge was up to date and authoritative, for he said that "no contrary order canceling it existed till now." In the fatwa related to cash endowments mentioned above, Akkirmani declared that the rate was written on the appointment diplomas of qadis. In this one, he informed that the original copy of the order was found in the courts of the three cities. He thus proves his knowledge related to the bureaucrat details. Also, the jurists that he engaged with reflects his connection with "Late Hanafis." The decree and Akkirmani's jurisprudential construction were issued still within the Hanafi school, albeit with a different opinion. This fatwa also provides us with information about how he established his authority within the fatwa. His interpretations were apparently within the boundaries of Hanafi school. While he directs the interlocutor to another opinion that was contrary to the authoritative one, he again was to choose within the madhhab. Instead of Ebu Hanife and Ebu Yusuf, he (or the text that he cited) chose another founder of Hanafi school, Imam Muhammed. Also, juristic and discursive tools such as in our times (*fî zamâninâ*) and the authoritative opinion *(kavl-i müftâ bih, el-muhtâr*) contributed to the establishment of his juristic authority.

4.5 Spatial Extent of Akkirmani's Jurisdiction

Do we need to consider only the political borders while evaluating a provincial mufti's jurisdiction? Was Akkirmani's jurisdiction restricted to Akkirman or would it be possible to define his spatial extent of jurisdiction regardless of political borders? Where did Akkirmani's fatwa function? After he was sent to Akkirman, he was to issue fatwas for this city. However, Akkirmani's fatwa was influential beyond

Akkirman, and even beyond the territories of the Empire.

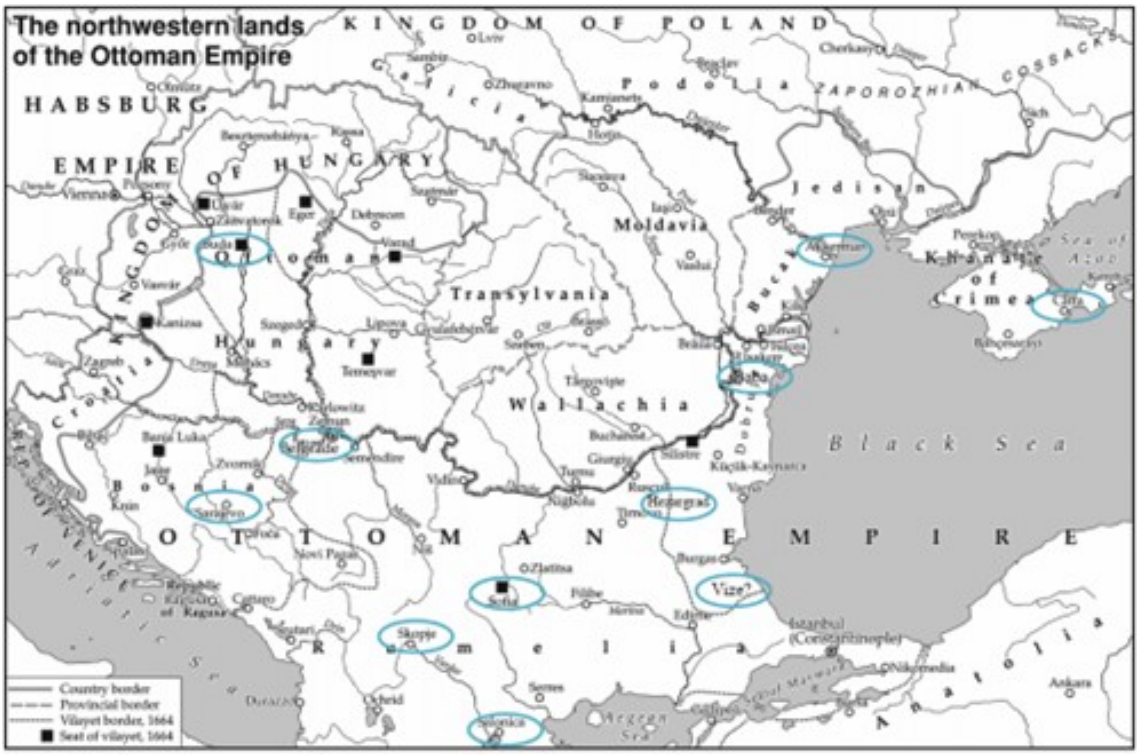

Figure 4.2 Map Showing Muftiships in Rumelia During the Late Sixteenth Century

In fact, this situation is understandable regarding the fact that there were not muftis in all cities throughout the Ottoman realm. More specifically, as shown in the map above, muftis were appointed only in certain cities in Rumelia.[90] Their number was quite less compared to that of qadis reaching 450 in the eyalet of Rumelia in the sixteenth century. Therefore, when Akkirmani was appointed mufti in Akkirman, he was not merely the mufti of the city, but the region as well. This can be easily understood when the geographical distribution of the muftiships was considered. The closest muftiships to Akkirman was that of Baba and Kefe. It thereby is very likely that the people of Kili, İsmail, Bender and Özü were to apply the mufti of Akkirman. Also, we know that all of these settlements were judgeships where judges took office.[91] In case of need, judges of these towns thus must have consulted to Akkirmani. Not only the triangle of Kili-Bender-Özü were subjected to the muftiship of Akkirman, but also questioners from the Crimean Peninsula occasionally requested his fatwas.

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[90]This map is taken from Viorel Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube* (Brill, 2019), 351. Information regarding muftiships is based on Beyazıt's and Baltacı's findings. Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 192-93; Baltacı, *XV ve XVI. Yüzyıllarda Osmanlı Medreseleri 1. Cilt*, 438-39.

[91]Silistre Sancağı Kanunnamesi, 19-22, BOA, TTD, 483; Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 150, 62, 66.

Furthermore, the Ottoman law was not employed in nearby tributary principality of Moldavia, hence there were no qadis nor muftis.[92] Still, people of Moldavia were considered the subjects of the Ottomans and they were to apply the nearby Ottoman courts if they wished. Consequently, when they needed legal counsel, they were to apply the mufti of Akkirman as well. Several fatwas related to the subjects of Moldavia (*Boğdan reâyâsı*) that will be discussed later in *Kitâbu's-Siyer* proves their resort to Akkirmani.

Certain fatwas testify that Akkirmani had questioners outside Akkirman. As it was cited above, the addresser of the question about the obligatory acts of ablution was seemingly living outside the city, because he stated that "I [once more] came from a distant location just only to dispel the doubt. For God's sake, please clarify it elaborately and may good rewards be upon you." Also, the expression that "when some of the scholars saw this honorable fatwa..." enables us to infer that the place that the questioner was living was not an insignificant outskirt of Akkirman, but a considerable location, possibly a judgeship (*kazâ*) or may be provincial center where other scholars could be found.[93]

Another fatwa concerns with the other side of Dniester River that fell within the jurisdiction of the judgeship of Bender (*Bender kadılığı*). The question posed to Akkirmani was whether that area was considered within Abode of War or not.[94] The answer to this question will be discussed in the next chapter, here our focus the spatial extent of his jurisdiction. Akkirmani was not the mufti of Bender though the questioner, may be Hind or the qadi of Bender, regarded him as the appropriate resort to apply.

Another fatwa in the Chapter of Divorce (*Kitâbu't-Talâk*) lets us know that Akkirmani was to evaluate a case in which three different qadis stepped in. The issue was brought to two qadis, the latter confirmed the former's decision, yet a third qadi also intervened with bribery, making an opposite judgment, as the questioner claims. Neglecting the discussion, three different qadis inevitably mean that the questioner was outside of Akkirman due to the fact that there cannot be three qadis at once in the city. And the questioner brought this case to Akkirmani.[95]

Spatial extent of Akkirmani's jurisdiction exceeded the Ottoman realm. In the

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[92] Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 356.

[93] Akkirmani, *Fetâvâ-yı Akkirmani*: Ib-1a.

[94] Akkirmani, *Fetâvâ-yı Akkirmani*: 64a-64b.

[95] Akkirmani, *Fetâvâ-yı Akkirmani*: 18b.

Chapter of International Relations (*Kitâbu's-Siyer*), a fatwa was recorded with a marginal note: "These two fatwa copies came from Muslim Tatar people in Polish lands. They were called 'Tatars of Cermiş.' They are very crowded."[96] Their question was even more interesting:

> Question: There is no Muslim ruler in an Islamic land (*bilâd-ı İslâmiyye*) within miserable infidel country (*vilâyet-i küffâr-ı hâksâr*) and its rulers and judges are generally infidels. Is it permissible according to shariah for Muslims in these lands to pray and conduct Friday prayer and sacred holiday prayer and designate with their own consent a Muslim from themselves who knows the pure sharia rules (*ahkâm-ı şeri mutahhara âlim bir Müslimi*) qadi and apply to him?
>
> Answer: Yes, it is.
>
> In this vein: If he performs the khutba but does not mention the name of a ruler, is the khutba accepted?
>
> Answer: The sermon can be performed on behalf of anyone. According to İmâm-ı Azâm, if preacher shortened the khutba to the extent that only the name of Allah is mentioned, for example only says *elhamdülillâh* or *sübhânallâh* and comes down from the pulpit, his khutba would be accepted and sufficient. Mentioning the name of the ruler is the condition of perfection, not of validity. In İmâm Muhammed and Ebû Yûsuf's opinion (*İmâmeyn*), this would not suffice. Glorification and praise to Allah, blessings to the Prophet, pray to himself and other Muslims and preach and reminder for the people are needed and considered as the condition of validity. Based on the two opinions, mention of the ruler is not a necessary element for the correctness of the khutba.[97]

In the context of spatial extent of Akkirmani's jurisdiction, this fatwa is peculiar not only in terms of the fact that the question was posed by Tatars from Polish lands, but with regards to the content as well. Tatars resorted to Akkirmani's authority to assign a qadi within themselves and conduct Friday and sacred holiday prayers, two of which had powerful political connotations. Regarding their circumstance, the mufti answered this transborder question announcing the permissibility of their

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[96] "Bu iki fetvâ sûretleri Leh vilâyetinde olan Müslümân Tatar kavminden gelmişdir. Anlara Cermiş Tatarı derler. Hayli tâifedir." Akkirmani, *Fetâvâ-yı Akkirmani*: 69a-69b.

[97] Akkirmani, *Fetâvâ-yı Akkirmani*: 69a-69b.

intention. He highlighted that they do not need to mention any ruler's name. Ironically, in this fatwa where Akkirmani's scope exceeded the borders of the Ottomans, the sultan's authority was restricted within his realm's boundaries by the mufti.

Fatwas of Akkirmani revealed their spatial setting. This eases and makes possible to understand his extent of jurisdiction. Numerous names of places found in *Kitâbu's-Siyer* such as Akkirman, Bender, Boğdan, Eflak, Kırım, Leh vilâyeti and Dniester river even enhances our understanding in this sense. We can thus securely assume that Ali Akkirmani's authority and jurisdiction was beyond the walls of Akkirman and its suburbs, even went beyond the Ottoman borders.

4.6 Conclusion

Spatial scope of Akkirmani's jurisdiction was derived from his successful authority construction. There were several aspects of his authority. His apparent emphasis on the imperial authority linked closely to the fact that he was a scholar-bureaucrat. At the end of the sixteenth century, the Ottoman center endeavored to accomplish control over the provinces with a large group of scholar-bureaucrats. In return, scholar-bureaucrats could establish their local authority relying on their imperial connections. Also, as another early modern reflex to ensure that the law was united and standardized as much as possible, the center imposed qadis to follow most accurate or authoritative opinions. As an extension of this policy, muftis, who constituted a checking system over the qadis, were also obliged to write their sources as reference. Though these were missions and requirements that Akkirmani was to follow as a provincial mufti, he utilized them for his own establishment of authority as well. Different aspects of Akkirmani's authority and their relations with each other uncover the complex and intertwined nature of the Ottoman law. It is hard to distinguish his local origins from imperial purposes, because the former serves the latter. In the same vein, added references that I examined under juristic authority were an imperial obligation. In addition, one can include the references to the fatwas of the chief muftis under juristic authority as well.

5. THE ROLES OF THE MUFTI

Developments of the late sixteenth and early seventeenth century caused serious changes in the Ottoman provinces. Slowing down in annexation of new lands obstructed the classical fief (*dirlik*) system that the Ottoman center relied on in the administration of the provinces. The Ottoman center had restricted options in the face of these developments. The imperial treasury became already in a difficult situation due to the long wars against Safavids in the east from 1578 to 1590 and Habsburgs from 1593 to 1606. Debasement of asper and successive waves of inflation during the late sixteenth century turned the officials with regular income vulnerable.

The officers in Akkirman such as the governor (*sancak beyi*), cavalrymen (*sipâhî*) and stewards of the state treasury (*beytü'l-mâl emîni*) were not isolated from developments taking place at the late sixteenth century. The authority and power of the governor diminished, as governor-generals gained importance in the course of the late sixteenth and early seventeenth centuries. The province of Özi was formed to be governed by a governor-general. The subprovince of Akkirman and its governor became connected and subordinated to the province of Özi and its governor-general respectively.

Thanks to the imperial commands, we know that from March 1605 to May 1606, almost in a year, five different governors served in Akkirman. These replacements were expensive for governors moving together with their households. In addition to these, rising prices and mostly fixed incomes brought about economic problems for the provincial officers. These patterns that Metin Kunt suggested must have been the case in Akkirman, too. As a matter of fact, in 1605, several problems occurred in Akkirman by the former governors who were not willing to hand over their offices to newcomers.

As we will see below, former governors of Akkirman caused troubles frequently, possibly because they did not want to change their posts in so short periods. Other officials and fief holders also looked for various ways to deal with economic difficulties

which mainly led them to compensating their loss through extorting the subjects. Moreover, the frontier zone characterized with constant raids and plunders must have risen the feeling of insecurity for the people, for they were always under threat of being enslaved. The city center hosted continually flows of slaves in the market and intensive marine trade. This also contributed to the complexity and, probably, chaotic atmosphere of the city. All these factors made the city disordered to some degree. It was in this context that the mufti of Akkirman established his authority and rose as an important actor. His office constituted an alternative legal platform where the local people invoked help with his fatwa against the local officials and qadis. To accomplish this, he relied on his local origins as well as imperial and juristic authority to place himself in these conflicts through his fatwa.

In this chapter, I will first examine the role of Akkirmani as a scholar-bureaucrat and his engagements with different powerholders in the district. His office fulfilled various functions in the city. I propound that people of Akkirman considered Ali Akkirmani the source of reliable information about religious affairs of their own. He was a legal counselor for both locals and qadis and his fatwas functioned as legal instruments. Akkirmani also served the ideals of the empire, by reminding his interlocutors the imperial legal knowledge and decrees. Thus, Ali Akkirmani was not a passive and merely "theoretical" actor in the legal scheme; but he influenced formation of laws practically as well.

5.1 Authority Over Qadi and other Local Officials

The turbulences of the late sixteenth century and Akkirman's location in the north-western frontier must have made the province and its subjects fragile. It was likely that the state officials in the city went for various instruments to compensate their loss, including extortion over the subjects. An imperial command sent in May 1606 proves the existence of such troops. The command mentions nine soldiers with names and informs that they always oppress the people of Akkirman. Therefore, their daily pays (*ulûfe*) were cancelled, and it was ordered that they be captured and delivered to the center.[1] After a few months, in January 1607, we learn that Moldavian subjects sent petition to the center complaining from the officials. The command elaborates that when Moldavian subjects went to other districts to ransom their relatives, the officials (*ümenâ* and *ummâl*) were demanding taxes (*bâc ve*

[1] A.DVNSMHM.d., 18 Numaralı Mühimme Zeyli Defteri, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 105.

rüsûm), which as an unprecedented practice.[2]

There are numerous questions posed to Akkirmani in similar circumstances. People in Akkirman applied to the office of mufti not only to ask fatwas about disputes among them, but they also looked for support from the mufti against other officials in the province, as numerous fatwas indicate. These could be various officials such as imams, *beytü'l-mâl emîni* (the steward of the state treasury), *ulûfeci*, *sipâhî*, *sancakbeyi*, *vâlî* (the governor), and qadis.

In general, complaints about imams and qadis seem to be higher in number. In the Chapter of Prayer (*Kitâbu's-Salât*), numerous fatwas related to imams attract attention. For instance, an imam was accused of continuously using opium and similar drugs as well as smoking tobacco which caused him to be unconscious, to pray deficiently and also to smell badly. The question includes the reactions of the community. We learn "the congregation hated his actions, which they considered to be incompatible with his position of imam (*imâmete düşmez fiillerinden cemâati istikrâh edip*)." The fatwa also informs us that the community warned the imam reminding of *fetvâ-yı şerîf* (the fatwa of the chief mufti) and *nehy-i pâdişâhî* (sultanic prohibition), yet he rejected by asserting "I did not see neither the fatwa nor the prohibition, they are valid in Istanbul."[3] Emphasis on the reaction of the community and detailed transmission of dialogues hint us that this issue was addressed by the community.

Similarly, another grievance the mufti adressed was about an imam becoming a regular at coffeehouses, drinking coffee, smoking tobacco and uselessly chatting with his idler friends. The loathing of the community emphasized in this example too.[4] Another imam was indicted for not performing his duty properly. Once he was warned by someone who was regular at the mosque that "Despite your incumbency to pray five times, you missed noon and afternoon prayers without any excuse." The imam defended himself saying "I am a man of knowledge; you cannot address me this way; this is a betrayal and humiliation." He then expelled the complainer from his prayer congregation. The questioner asked the mufti whether the prayers behind this imam would be accepted or not.[5] It is possible to infer from the dialogues and complaint that this fatwa was asked by an ordinary man, not a qadi or another official. This shows people's application to the mufti Akkirmani in such situations.

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[2] A.DVNSMHM.d., 18 Numaralı Mühimme Zeyli Defteri: 228.

[3] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 5b.

[4] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 5b.

[5] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 6b.

In another fatwa, the questioner accused an imam not to hand out the money donated to poor people, and even to spend it for himself.[6] In all fatwas, the common people considered the mufti a resort when they were protesting their imam for some reason. Ali Akkirmani, appears not to have hesitated to criticize imams, almost in all responses: To him, the first imam deserved discretionary (*tazîr*) punishment. Also, in the first and the second, his prayers would not be accepted and the curse of God, angels and all people would be upon that imam. In the third fatwa, the qadi was held responsible to discharge imam. The fourth imam was described as betrayer and exceeding limits. Although their position was officially approved by the endowment and central government, the imams were not holding any official authority over the people.

The common people sometimes complained about those who had official authority on behalf of the sultan to punish people. In the Chapter of Various Issues (*Mesâil-i Şettâ*), it is told that a man was killed outside of a village and *ehl-i örf* (administrative, military and executive officials except for scholars) charged some peasants to be the murderer. Peasants rejected the accusation. The dead body was not found somewhere outside the village. However, the officers charged and imprisoned peasants in this village (or attempted to do so). Basing on this narration, Akkirmani regards this as oppression (*zulüm*), owing to the location of the dead body and the lack of litigation of the victim's family. He also states that the qadi (*hâkimu'ş-şer*) needed to clear this mess out.[7] In other words, Akkirmani's fatwa was in favor of the villagers, and he directed the qadi to prevent this oppression.

A fatwa in the Chapter of Litigation (*Kitâbu'd-Davâ*) shows Akkirmani's manner against the steward of the state treasury (*beytü'l-mâl emîni*) in a similar circumstance. The mufti was informed about an incidence in which a woman passed away while she was with a few other people in a house, all were with their dresses. Because the woman's properties belonged to the state treasury (*metrûkâtı mîrîye âid oldukda*), the steward of the state treasury seized her estate. The steward claimed that all dresses in that house belonged to that woman. Therefore, unless others prove individually that dresses belonged to them, the steward thought that he could confiscate all dresses on the behalf of the state. On this, Akkirmani found the steward unjust, for the claimant should provide evidence for his claim.[8]

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[6] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 6a-6b.

[7] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 148a. A similar fatwa in *Kitâbu'd-Davâ* also exemplifies the confrontation of *ehl-i örf* and people, and the latter's appeal to Akkirmani. Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 201a [05a].

[8] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 202a [06a].

In another fatwa in the Chapter of the Etiquette of the Judges (*Kitâbu Edebi'l-Kadı*), Akkirmani issued the fatwa against the steward of the state treasury (*beytü'l-mâl emîni*), because the latter did not take the witnesses into consideration. He stated that neglecting witnesses can only be possible in case there is sultanic exception (*istisnâ-i sultânî*). Otherwise, the qadi has to judge without any delay in accordance with the witnesses.[9] Again in the same chapter, this time we see that Akkirmani issued fatwa contrary to the governor (*vâlî*).

> Question: Zeyd claimed that Amr tyrannously seized these amounts of my assets. Amr rejected the claim and the dispute was brought to the governor. The governor, relying merely on Zeyd's word, concluded the rightfulness of Zeyd. If Amr delivers the assets for fear of the governor, did Zeyd get the assets lawfully?
>
> Answer: No. The lawful procedure is to bring evidence or to administer an oath. Unless any of these was done, Amr would be aggrieved.[10]

Here, again, Akkirmani was for the oppressed against an official, even, the governor. All cases show that people applied to Akkirmani in the cases in which they engaged with various officials. The questioners resorted to the office of mufti as they were oppressed by the officials. And almost in all, Akkirmani seems unhesitant to go against the officials.

Among all officials mentioned in different fatwas of Akkirmani, qadis held a distinct place in terms of the number of fatwas and strict language of the mufti. In the previous pages, we saw how qadis needed the opinion of the mufti in certain issues. However, in plenty of the fatwas in *Fetâvâ-yı Akkirmani*, Akkirmani define, clarify the limits and check the authority of qadis. Particularly, the Chapter of the Etiquette of the Judges *(Kitâbu Edebi'l-Kadı)* includes several of them. For example, it was asked to Akkirmani whether the judgement of a qadi is still valid who was known for straightforward venality, cursing the mouth and wives of the Muslims, smoking and similar depraved acts. Akkirmani responded that "his judgments which included bribery were invalid and cursing to the mouth of the Muslims requires the renewal of the faith."[11]

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[9] Akkirmani, Fetâvâ-yı Akkirmani, Hekimoğlu Ali Paşa, 405: 172a.

[10] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 203a [07a].

[11] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 170a.

Akkirmani's fatwas defined qadi's authorization, directed him to judge in a specific way and sometimes challenged his authority. About an imam neglecting his task, Akkirmani discusses different opinions and indicates a qadi how to act: "Otherwise, the qadi was appointed to realize the truth. He dismisses him and assign someone worthy of [being an imam]."[12] He not only propounds how the qadi should rule, but before that, defines the role of qadi by saying that "the qadi was appointed to realize the truth" meaning that the judge was appointed to give the rights to their owners.

Similarly, an inquirer posed a question about a qadi not listening to the witnesses and rejecting to judge. Mentioning an authoritative book in the Hanafi corpus, İmâdiyye, the mufti says:

> If evidence is provided, it is obligatory (vâcib) for the qadi to judge accordingly. If he does not take this as an obligatory act, he becomes infidel. If he accepts that it is obligatory, though still postpones, he becomes wrongdoer (fâsık) and deserves to be discharged.[13]

Akkirmani, as it is seen, shows the limits of qadi and consequences of his possible actions through his fatwa. He constructs the authority of his fatwa, over the qadi's acts and thus, once again, the mufti of Akkirman issues the fatwa binding qadi theoretically at least.

The formation of norms in Akkirman was beyond the dichotomy of Akkirmani versus the local officials, qadi in particular. We see a more complex dialogue between the mufti, qadi and people. The following series of fatwas related to a certain occurrence reveal this complexity from.

The issue arose from a qadi's rush to seal the home and store of a man, who just died. The man left a widow and children behind, and the qadi's headiness even before his burial irritated the grieved relatives. Also, the woman announced that the entire property belonged to her, yet the qadi neglected her statement and attempted sealing all. After this scene was depicted, it was asked whether the qadi had the right to do so. Akkirmani answered in brief: "He is not." The questioners continued to pose questions, blaming the qadi to be venal (*mürteşî*) and oppressor (*zâlim*). In addition to that, it is said that the qadi's rush, which was contrary to the honorable law (*şeri şerîf*), was not for the good of the children, but to collect more taxes unfairly. The

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[12] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi 1970, 6b.

[13] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 173b. Also for another similar fatwa see: Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 175b.

Muslims who were there at the moment also opposed to qadi, saying that they have never seen any other qadi behaving like that, and it is inappropriate to practice innovation (*bidat*). In response to these words, the qadi humiliated and insulted the Muslims by saying them "you rebels and thugs! (*bre celâlîler ve manavlar!*)." On this, Akkirmani puts emphasis on the bribery and declares that:

> In this world, his decisions involving bribery are not valid; also in the afterlife, as the hadith informs, he deserves to be among the hell dogs and humiliated by being planted a flag on his ass.

The questioners kept asking. They narrated that the qadi sent his agent for partition of the inheritance basing on the law (*şer-i şerîf*) among the heirs. The agent portioned the inheritance out, however, the qadi did not approve the partition and said that "You gave the Moldovian non-Muslim too much." The questioners considered these words as betrayal and contempt to the legal rule (*hükm-i şer*) and thereby asked the mufti, "What does the qadi deserve?" Akkirmani was again against the qadi and stated that "Who betrays the honorable law (*şer-i şerîf*) and decisions derived from it, becomes infidel." Lastly, it was asked that "What is the proper penalty for the Muslims who said to the qadi 'is it merciful for a qadi to come [so early that] when the body is still unburied and to cause pain over pain?'" Akkirmani finds the words to be said in their proper place ("*Hak söz söylemiş*"), therefore they deserve no punishment ("*Nesne lâzım olmaz.*")[14]

This one is in fact a good example of the place of Akkirmani's fatwa in the mind of the people. When the qadi or other state officials behaved them unfairly, they considered Akkirmani as an authoritative actor who could listen to them. Accordingly, the woman, his relatives and other people in her neighborhood applied the mufti once they confronted qadi. We do not know how the fatwa was used; it is probable that it was sent to the imperial center together with a petition. As for qadi, the mufti constituted an actor who could dare to challenge his authority.

Akkirmani's several fatwas on the holiday prayer (*salât-ı îd*) are also fruitful to demonstrate this relation. The winter in Akkirman could be harsh to the extent that the Dniester River was frozen.[15] Possibly it was such a freezingly cold winter when the inhabitants of Akkirman gathered in the masjid built by Sultan Bayezid

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[14] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 172a-72b.

[15] In an imperial command of March 1605, the governor of Akkirman Hüsrev Bey was ordered to go and support the defense of Özi castle before the ice was defrosted. For this, see: 018 Numaralı Mühimme Zeyli Defteri, A.DVNSMHM.ZYLd, 4a.

II within the walls. People had already gathered and the preacher (*hatîb*) permitted by the sultan was about to preach, however, the qadi ordered people to perform the prayer outside of the walls following his lead. Otherwise, the qadi claims, their prayer would not be accepted and their marriage would become invalid. The qadi went even further and asserted that it was the qadis who decided whether the holiday prayer to be performed or not, and disobedients shall be punished and their properties shall be confiscated.

Regarding that the holiday prayer would be performed just as the sun starts to rise, the weather must have been its peak in coldness. Here, again, we see the people of Akkirman somehow invoked the help of the mufti against the qadi. The qadi's dictation that "who obeys the honorable law come to the place of prayer (*musallâ*)" must have frightened the people. In order to ensure their legal security, they came to the mufti to ascertain if they indeed disobeyed the law (*şer-i şerîf*). In this aspect, the mufti functions as the place for legal consultation. But more than that, it is very likely that they wanted to take advantage of the authority of the mufti, hence involved him the dispute.

Ali Akkirmani affirmed the community and and relieved them stating that they obeyed the law and their prayer would be valid. Then he opposed to the qadi. "Just like the Friday prayer," Akkirmani propounded, "the holiday prayer is subjected to the permission of the sultan, and prayers without his permission are not accepted." He then shows the correctness of his opinion, referring to the respected books of *Vikâye*, *Hidâye* and others. As for the other statements of the qadi, Akkirmani steps it up and explicitly reacts as: "He said wrong, he was a supreme ignorant (*Bâtıl söylemiş azîm câhil imiş*)." After that, the mufti reminds the limits of the qadi, that he cannot decide where the prayer will be performed and cannot act as he wishes. He says that "Qadis are not allowed to lead the Friday and holiday prayers unless they are assigned to do so" and mentions his references. Also, Akkirmani sarcastically responds to the qadi's threat to the disobedients. He says that the qadi is not allowed to threaten and adds "It would be enough for him to punish himself with his ignorance and invalid words (*Cehl u bâtıl kavliyle kendiyi tazîr yeter*)."[16]

18 Numaralı Mühimme Zeyli Defteri includes imperial decrees from 1013/1604 to 1015/1606. The decrees about two specific governors in these registers concern us. Kemerli Abdi became the governor of Akkirman at 1014/1605, after Hüsrev's tenure in earlier months.[17] It seems that it did not take so long until the tension between

[16] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 7a-7b.

[17] Previous decrees refer to Hüsrev Bey as the governor of Akkirman.

Kemerli Abdi and some people in the city rose leading eventually to discharge of Kemerli Abdi from the office. A decree was sent about this issue to the (new) governor of Akkirman, very probably Ramazan, and Tatar nobles (*ağa*s) in Kilia (*Kili*) and Bender and soldiers (*neferât*) in that place:

> Complainants of Kemerli Abdi Bey, the former governor of Akkirman, came to my imperial council and clarified [their claim]. He is needed to be brought to my Abode of Happiness (*Âsitâne-i Saâdet*) so that he be tried according to the sharia (*şer*) in the Council. I ordered that the mentioned Kemerli Abdi be brought tied from wheresoever and sent to my Threshold of Happiness (*Südde-i Saâdet*).
>
> It is commanded that when [this order] reach you, find Kemerli Abdi cautiously and send him with reliable men tied and imprisoned to my Abode of Happiness so that he be judged in my Imperial Council according to *şer* and executed as required. Warn your men strongly to not fall into carelessness to let him run away and stay cautious.[18]

We do not know if Kemerli Abdi Bey was captured. Yet another command sent to three officials including Kemerli Abdi (the other was Kaya, another former governor of Akkirman [*sâbıkan Akkirman Beyi olan Kaya*] whereas the third is unreadable due to the problem in the manuscript) ordered them to come to the center to be appointed in another province:

> When this order reaches you, you three do not idle and delay and come immediately to my Threshold of Happiness (*Südde-i Saâdet*) and wait as candidate for a new post (*mülâzemet üzere olasız*). Beware of being late and disobedience ... [19]

Is it possible that this one was a bait for Abdi Bey to direct him to Istanbul? It is possible but we cannot be sure. The center could really have thought that changing the governor would normalize the situation in Akkirman. What we know that either before this or after, the center sought to incorporate other actors in Akkirman to solve the disagreement, including the mufti of Akkirman:

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[18] 018 Numaralı Mühimme Zeyli Defteri: 29a.

[19] 018 Numaralı Mühimme Zeyli Defteri: 35b.

> Command to the Finance Director of Danube (*Tuna Defterdârı*), the Supervisor of Tax-farms of Silistra (*Silistre Mukâtaâtı Müfettişi*) and the Mufti and Judge of Akkirman (*Akkirman Müftîsi ve Kadısı*),
>
> There was a legal case (*şerî davâ*) between the former governor of Akkirman Kemerli Abdi and some people from the city. As a result of it, some petitions (*arz u mahzar*) and complainants (*şikâyetçi*) came to my Abode of Happiness and complained of the oppression. Afterwards, contrary to those petitions, other petitions came from the elites of the district (*ayânı vilâyet*) reporting the goodness of the aforementioned [Kemerli Abdi]. Since the reliability of two camps is not known, I ordered to bring those grumbling about the governor and him in front of the honorable sharia (*şer-i şerîf*) and judge them accordingly (*davâ-yı hakk ve tayîn-i mâdde eden husûsların şerle görüp*) if needed, give the rights of people to the owners and thereafter, report the occurrences in detail to my Abode of Happiness. ... In this matter, each of you be careful to not be patronized by the two sides and adjudicate based on justice and oppress no one.[20]

Here what happened was that the center put other provincial and local actors in the game. It was during 1014-1015/1605-1606, the mufti of Akkirman was obviously Ali Akkirmani. In that sense, the center wanted Ali Akkirmani to be included in the events together with other actors. We do not know his exact function here, but delivering a decree to the mufti in a critical issue is important by itself. It reveals that the center knew his weight and wanted him to intervene in the problem, either as a legal advisor for the judge or with other purposes. For this reason, it becomes certain that the center did not consider the mufti of Akkirman as a mere theoretical actor that is secluded from the practical area. As for Kemerli Abdi Bey, we learn from other decrees that he later managed to be appointed as the governor of Kili and died there.[21]

Akkirmani's struggle with provincial officers reaches its peak within several months with another governor of Akkirman, Kaya. His name was already mentioned above in the decree as the former governor of Akkirman *(sâbıkan Akkirman beyi olan Kaya*) that he was called back to the center together with Kemerli Abdi. We do not know why Kaya was summoned urgently to come to the center to wait as candidate for

[20] 018 Numaralı Mühimme Zeyli Defteri: 146a.

[21] Relevant decrees ordered to the judge and other officers of Kilia to send the properties of the deceased Kemerli Abdi, the former governor of Kilia which were found in Kilia to the center. 018 Numaralı Mühimme Zeyli Defteri: 256b, 57a.

a new post (*mülâzemet üzere olasız*).[22] Yet another decree sent to Kaya gives clue that there was an ongoing struggle over the governorship of Akkirman:

> Decree to Kaya, the former governor of Akkirman,
>
> By the moment the aforementioned sub-province was granted to Ramazan, who was the example of the virtuous commanders (*kıdvetü'l-ümerâi'l-kirâm*). It was notified that you interfere in his scope of authority. Be aware that the mentioned province is entrusted to him and you have been granted no province. You are ordered to come immediately to my Threshold of Happiness to serve here and wait for your appointment (*Südde-i Saâdetimde hizmet ve mülâzemet üzere olman*) and when [this decree] reaches you if you hope for [the governorship of a] sub-province come without no delay ... [23]

It is likely that this one had been previously sent to Kaya before the one addressed to Kemerli Abdi, Kaya and another one. Indeed, an expression in the previously mentioned one that "all of you still ... (*hâlâ sizin cümleniz*)" implies that a decree calling them to the center had been already delivered to them.[24]

Regarding these two decrees, what is revealed more importantly is that around the year 1605, governors of Akkirman were changing in quit short terms. In *18 Numaralı Mühimme Defteri Zeyli* that covered three years, 1604-1606, five different governors of Akkirman were mentioned: Hüsrev, Kemerli Abdi, Kaya, Ramazan and Seydi. It would be justified to think this phenomenon within the framework Kunt suggests. As mentioned in Introduction, he stressed that the governors were not willing to leave their offices. Considering the move of their households, their short tenures were difficult to afford, in addition to already ongoing economic fluctuations. We can understand both Kemerli Abdi's and Kaya's illegal acts within this framework.

We know that two of them were causing trouble or were accused of doing so. Kemerli Abdi was charged with the crime of oppression over the inhabitants. Kaya was

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[22]018 Numaralı Mühimme Zeyli Defteri: 35b.

[23]018 Numaralı Mühimme Zeyli Defteri: 68a.

[24]In another decree, Kaya was ordered to come to the center so that he could be appointed to a district in return for his service. It is interesting to note that it was İrmili, a former voivode of Bogdan who sent a letter to Istanbul and suggested Kaya for "the aforementioned subprovince (*livâ-i mezbûr*)" which referred probably to Akkirman. Since it is not possible to determine the dates of the documents, we cannot ascertain whether this decree was issued earlier or later. The significant point is that the decree implies that "if you wish to obtain an office, you need to arrive in Istanbul." 018 Numaralı Mühimme Zeyli Defteri: 197b.

complained to interfere in the current governor's affairs, probably because he did not want to transfer the office. Nevertheless, allegations about him were more than that, linked closely with the mufti, Ali Akkirmani:

> Decree to Ramazan, the governor of Akkirman,
>
> You sent a letter declaring that Kaya, the former governor of Akkirman, did not obey the honorable orders (*evâmir-i şerîfe*) about himself and forwarded many brigands to kill the mufti of Akkirman saying that he sent petition to the Gate of Happiness about himself. For this reason, the mentioned [mufti of Akkirman] locked himself in his house, not stepping out for fear of the harm of the aforementioned [Kaya and his brigands], and thus Muslims became deprived of the issuance of fatwa. This governor is bandit and outlaw who led many corrupted locals and castle soldiers to malice. For you informed that those brigands who followed the mentioned [Kaya] should be inspected, dealt according to sharia (*şer*), my order is to take care of them if their corruption and malice really were as reported. When [this decree] reaches you, investigate all who are involved with corruption from the locals and castle soldiers with sharia (*şer*) and if their evil is real, judge them according to sharia so that they constitute a lesson and warning to other brigands. ... [25]

This decree seemed to be issued due to the letter of the current governor, Ramazan, complaining the illegal acts that Kaya committed. It is not surprising seeing Ramazan in this position as we had already seen Kaya intervening in his affairs. What is interesting in these events is the role that the mufti of Akkirman undertook. It seems that Akkirmani stood with Ramazan and opposed to Kaya's illegal acts and banditry, if we assume that the claims were true. The mufti did not restrict his opposition with the provincial level and included the Ottoman center in the conflict reporting Kaya and troubles that he caused. It is quite likely that Akkirmani was opposing him for a while in various ways, most probably through his fatwas, and his petition to the center became the final blow. As a result of this, Kaya besieged his home with his men endeavoring to murder him.

It is noteworthy that in his letter Ramazan underlined that Muslims became deprived of the mufti's fatwas (*Müslümânlar fetvâ verilmekden kalıp*). This demonstrates that issuance of fatwa was an important act for the inhabitants of Akkirman.

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[25] 018 Numaralı Mühimme Zeyli Defteri: 35b.

Also, Akkirmani's alliance with Ramazan and struggle against Kaya were evidence for his active role in the power-relations of the city.

Several fatwas related to the disagreements among qadis or their dismissal were also peculiar in the sense that the mufti of Akkirman was an effective actor whom the local elite applied to solve disputes. The common theme in some of these fatwas, qadi is dismissed for some reason by the state authority, yet he does not approve the decision.

In a fatwa, someone was assigned as qadi by the sultan. When he arrived in the place of duty, he showed the appointment letter to his predecessor who was still in the charge. Once Amr (the former qadi) saw the letter, he did not give up his office and did not hand records (*sicillât*) over. He kept holding the post hearing cases and insisted that "I am qadi without an authorizing document (*temessük*)." It was posed to Akkirmani that "Are these acts of this man (*Amr*) legally (*şeran*) permissible and are his judgments valid?" Akkirmani answered: "No, they are not, particularly in the case that the new qadi (*Zeyd*) arrived in his place of duty."[26]

Akkirmani issued a fatwa for the discharge of a qadi, who had been appointed supposing to be just. However, he accepted bribe and drank alcohol together with other sinners.[27] In some fatwas, in the absence of an incumbent qadi, we see the common people intervening to make someone whom they trust the deputy. Akkirmani objected the legitimacy of this deputy and declared that "the judgment cannot be valid with the appointment of the common people."[28] Likewise, when a few people strove to make someone qadi, the mufti advocated highlighting implicitly the sultanic authority that "Not just a few people, even if all the inhabitants of the town would gather and made him qadi, he still would not be qadi."[29]

These fatwas show how people in Akkirman came face to face with the officials. Also, incumbent qadis and governors usually did not want to hand their offices over to newcomers. This tension was probably stemmed from more general problems occurring throughout the empire in the late sixteenth and early seventeenth century. Why did people address these questions to Akkirmani? Akkirmani must have been one of the essential powers around Akkirman with his local connections, imperial and juristic authority. Therefore, those who had trouble with relatively powerful authorities in the district resorted to Akkirmani to resolve the problem.

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[26] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169b.

[27] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169a, 69b.

[28] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 182b.

[29] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 167a-67b.

Also, these fatwas are quit fruitful to understand Akkirmani's relations with the local offices. He obviously attributes an authoritative place for himself to speak out on them. To do so, as we will see in the next chapter in more detail, he operates various means of authority such as the sultanic exception, sultanic prohibition, sultanic orders as tools of imperial authority and added references for constructing juristic autority. By obtaining these fatwas from Akkirmani, first of all, people would have found a significant shelter defending their right, regardless of its practical consequences. It is probable that the mufti acted as a legal mediator in many cases. Secondly, most probably, they might have presented the fatwa as evidence in the court, or send it to the center to seek justice, if the local instruments did not suffice.

5.2 Source of Reliable Information About Religious Affairs

People visited the office of Ali Akkirmani to pose very essential questions regarding their religious life. These would be questions concerned with daily practices, requiring relatively long explanatory answers in general, in which the mufti clarified the acts at the level of common people. These ones were long and detailed, and more often included less theoretical discussion. How one praying alone should intend for his prayer? When the night prayer (*yatsı namâzı*) should be performed? What should one do when he comes to the masjid for Friday prayer? How *iskât* (recompensation of a dead person for his unperformed prayers) should be performed? These are some of the questions Akkirmani answered.[30] This implies that the residents of Akkirman saw the mufti as the source of the reliable information regarding religious affairs.

They also came to Ali Akkirmani to check the reliability of information that they heard from other sources, particularly preachers. For example, Ali Akkirmani was asked that some preachers announced that performing a specific type of prayer, prayer of enemies (*husemâ namâzı*), expiates a person from the rights of other individuals on him (*hakk-ı abd*)—the rights that cannot be legally claimed in this world but supposedly will be enforced in the afterworld. He replied to this question that these were mentioned in the books of advice, yet it was written in the jurisprudential works that these prayers were not useful and should not be performed.[31] In another issue, preachers' claim that "performing prostrating (*secde*) in a certain way (*secde-i tavîle*, as explained in the question) earns much reward (*sevâb*)" was addressed to Akkirmani. He objected this assertion by discussing the authoritative books: "Al-

[30] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 4a-4b.

[31] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 3b.

though a prophetic saying related to this was reported in *Şerh-i Muzmerât* (a gloss of *Muhtasar-ı Kudûri*), this tradition is falsified in Gunyetu'l-Mutemelli."[32] These questions demonstrate that people saw the mufti of Akkirman as an authority over preachers and considered him the source of reliable knowledge.

The first fatwas of *Fetâvâ-yı Akkirmani* related to ablution reveal Akkirmani's reactions when he was challenged about his reliability and authority. A man possibly living outside Akkirman asked that "How many required acts (*vâcib*) does ablution (*âbdest*) have?" Akkirmani replied "There is no required act for ablution as it was explained in some acknowledged books." We learn from the next question that the questioner took this fatwa with him and returned back to his hometown. He then showed it to the scholars living there. These scholars rejected Ali Akkirmani's opinion:

> As there are obligatory acts (*ferâiz*), recommended acts (*sünen*) and suggested acts (*müstehabât*) for prayer (*salât*), there are the same elements for ablution, anyone claiming the opposite should explain his opinion on the basis of explicit evidence.

The questioner came back to Akkirman and arrived in the office of mufti "from a distant place just to straighten himself out." He asked for a detailed explanation about the issue. Ali Akkirmani's scholarship and authority was challenged. Now, he changed his manner, and strictly counteracted offending his rivals:

> Those scholars are scholars of entertainment (*âlim bi-eyyâmillâh*), an expert scholar would not say such a thing.

He then turned to Arabic and spoke to those scholars at their levels with quotations from a series of authoritative books: *Mukaddime fi's-Salât* of Ebu'l-Leys es-Semerkandi, its gloss *et-Tavzîh*, *Şerh-i Menâr* of İbn Melek, *Beyânu't-Tebdîl*, *et-Tavzîh* the gloss of *et-Tenkîh*, *Munyetu'l-Musallî* and its gloss *Muhtasaru Gunyetu'l-Mutemellî*.[33] We do not know much more, yet this is enough to show that Akkirmani was a distinguished mufti attracting people outside of the city to come and ask him questions. His response to the scholars challenging him also indicates his confidence about his scholarship. Lastly, in these two fatwas, we see how fatwa can be a place

[32] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 4a.

[33] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: Ib-1a.

for scholarly discussion.

Another fatwa in the Book of Divorce (*Kitâbu't-Talâk*) of *Fetâvâ-yı Akkirmani* is an example of pure scholarly questions. The question starts with a direct quotation in Arabic. Then the questioner turns to Turkish and states:

> This issue is mentioned in *Eşbâh ve'n-Nezâir*'s chapter of divorce (*Kitâb-ı Talâk*). Could you understand what is implied in this sentence?

In the copy of Veliyyüddin Efendi 1470, a note was written at the margin of the text to sum the question up very briefly: "*Mesele-i garîbe fi'l-Eşbâh*" meaning "a bizarre issue in Eşbâh." Akkirmani explains in his response the ambiguous points in the phrase and refers to another source in added reference (*nakil*).[34] These questions were apparently posed to Akkirmani by a scholarly person, very probably a qadi, if he is not, a professor or a student, to learn the true ruling or meaning of the issues.

5.3 Legal Instrument and Alternative Legal Platform

Several studies concerned with the Ottoman fatwa showed their instrumental use in the courts. The questioner would come to the mufti, hoping to get a fatwa supporting his position and present it in the court. Also, qadis would prefer to consult some issues with mufti in order to secure his position in case that the case was to be taken to the Imperial Council (*Dîvân-ı Hümâyûn*) for appeal. Such circumstances could be taken as instrumentalization of the fatwa. Nevertheless, we do not have any court record or document proving that Akkirmani's fatwas were used in the court or for another purpose. Still we can resort to in-text analysis to understand his fatwas' role in this sense.

Numerous fatwas from *Fetâvâ-yı Akkirmani* can be cited in this regard. In a fatwa in the Chapter of the Etiquette of the Judges (*Kitâbu Edebi'l-Kadı*), for instance, a man was killed nearby someone's property, who was a reliable and pious person. The relatives of the victim brought the case to judge accusing that man to be the murderer, though they were unable to present evidence proving their accusation. Credible Muslims testified the man's piety and reliability. The judge therefore acquitted him and gave him a signed and sealed evidence (*hüccet*). Nevertheless, the

[34] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 27b.

relatives kept insistingly bringing the case to trial in every new appointed qadi. Here the questioner poses whether the victim's relatives had the right to aggrieve that man by accusing him repeatedly being the murderer in the court.

In the answer, Akkirmani starts with a kind of sermon that the people of faith should firmly believe in sharia (*şer-i şerîf*) and obey its manifest (*zâhir*) and hidden (*bâtın*) [aspects]. He then quotes a verse from the Quran that Muslims have to truly believe in the judgment of the Prophet and submit to his decision wholeheartedly without resistance. The answer follows with a short reference to Qadi Baydawi's tafsir (d. 1286), interpreting the verse emphasizing the commitment of Muslims to the decision of the Prophet with manifest and hidden aspects. After the "sermon" finished and Akkirmani showed the otherworldly danger, he stated that judges were prohibited to hear a case that had already been adjudicated on the basis of sharia (*şer*). If they do not obey the honorable sharia (*şer-i şerîf*), they deserve discretionary punishment (*tazîr*).[35]

This fatwa is a good example of the mufti's function and method. The questioner (*müsteftî*) was most probably the man who was abstracted as "Zeyd" or one of his relatives. After several trials in the court, he was fed up with this and apparently applied to the mufti to deter the accusers. Akkirmani initially addressed to their belief and indicated the close relation between faith (*îmân*) and relying on sharia (*şer*). In addition, mentioning the Quranic verse and commenting on it, he warned them with the ruin of their afterlife. Afterwards, he put the essential point related to the case. The prohibition of qadis hearing an adjudged case again was repeatedly seen in other fatwas as well. In these fatwas, it is stated that this was in force basing on a sultanic order (*emr-i sultânî*).[36] Here, we see Akkirmani utilizing the sultanic order to deter the family of the murdered. He lastly cautioned otherworldly consequences of their possible persistence, referring to the relation between obeying the honorable sharia (*şer-i şerîf*) with preserving the faith. He also warned them and the judge of the impending discretionary punishment (*tazîr*), if they persisted to pester the exonerated person.

This application to the mufti demonstrates that Akkirmani held considerable and decisive authority among people. The questioner probably considered the office of mufti to be able to provide a solution for his problem. We do not know if the family kept bringing the case to trial. Even if they dared, there would be no doubt that Zeyd used this fatwa in support of him at the court. Either way, Akkirmani offered

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[35] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 175a, 75b.

[36] For example see Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 174a, 74b, 76a, 77a. I will talk about this issue in the following chapters.

an alternative legal platform, a legal consultant, if not a mediator.

Another fatwa is about the residents from two separate villages using the same watering trough to water their herds for eighty years. One of the village's residents planted crops on the way through the watering trough to obstruct other village's flocks to reach there. Apparently, mistreated village residents came to the town and asked Akkirmani, whether they were allowed to clean the way from the crops for their animals as it was before. Akkirmani replied that they were allowed to do so, unless they did not use another trough during this time.[37]

Another fatwa in the Book of Litigations (*Kitâbu'd-Davâ*) tells that a man, who was referred as Zeyd, cultivated a land belonging to a provincial cavalryman (*sipâhî*) for forty years. Once the provincial cavalryman went to the eastern campaign, another man, who was aware of Zeyd's activities for years, put a claim for the land. He himself tilled the land, preventing Zeyd from planting any crops there. Evidently, this question was asked by Zeyd, either to present in the court or just directly solve his problem.[38] All fatwas reveal that the people of Akkirman wanted to include the mufti in their disputes and/or legal affairs.

In the Book of the Etiquette of the Judges (*Kitâbu Edebi'l-Kadı*), a non-Muslim subject (*zimmî*) has lent some money to a Muslim subject and talked behind his back. Thereupon the Muslim man took him to an isolated place, saying that "Why do you talk about me? Just demand what you want if you claim a right." and slapped him in face. It seems from the last part of the fatwa that the non-Muslim subject attempted a counterattack. Akkirmani was asked what [punishment] the non-Muslim subject deserved for attacking and beating the Muslim man.

It is possible to understand from the form of the question that the inquirer expected a fatwa against the non-Muslim subject. Ali Akkirmani's answer to the question was vice versa:

> No punishment is needed for the non-Muslim subject since the lender is allowed to reprimand and force the debtor to pay his debt.

A new but relevant question (*bu sûretde*) was posed thorough which we learn that the incident went on. While the non-Muslim and Muslim subjects were fighting, Zeyd the sayyid, a descendant of the Prophet, was probably passing through the street and

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[37] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 151b-52a.

[38] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 208a.

was involved in the conflict in support of the non-Muslim subject. The descendant of the Prophet defended the non-Muslim subject and swore the Muslim by saying "You son of the wild wicked! Did you become the governor? What do you want from this infidel? (*bre yaban oğlanı kekez sen il beği mi oldun bu kâfirden ne istersin*)" because of the Muslim beating him up. The Muslim confronted the descendant of the Prophet and called him cursed (*melûn*). The form of the question, once again, reveals the anticipation that the fatwa will be against the Sayyid Muslim and in favor of Amr: "What [punishment] does Zeyd-i Seyyid deserve?" In his answer, Akkirmani points out that "Forbidding wrong should be done politely which Zeyd lacked. Nonetheless, the curse returns back to the Muslim (Amr), furthermore, due to his humiliation and maltreating to Zeyd, Amr also deserves *tazîr-i şedîd* (harsh discretionary punishment)."

In this fatwa, it appears from the form of the questions that Amr thought to get the opinion of mufti on his side. However, in the first part, Akkirmani did not discriminate against the non-Muslim and underlined his status of lender. Similarly, when Amr and Zeyd faced, both Muslims but the latter with a privilege, Akkirmani was again on the opposite of Amr and focused on the curse and humiliation against a Prophet's descendant.[39] In this example, despite Zeyd's attempt to exploit fatwa on his own, Akkirmani issued vice versa. Almost in the face of an identical question, in which a non-Muslim lender insulted a debtor Muslim several times, Akkirmani responded in the same way, declaring it is the right of the lender to do this.[40] It is worth noting that the non-Muslim subject in these fatwas was a passive actor who was given information about. However, non-Muslims in *Fetâvâ-yı Akkirmani* were not always passive actors.

Non-Muslim subjects utilized Akkirmani's fatwas for similar purposes as well, as the following fatwas demonstrate. A fatwa placed in the Book of Various Issues (*Mesâil-i Şettâ*) talks about a Muslim quarter, in which some non-Muslim subjects also owned houses and settled there. It seems that the Muslims in the quarter attempted to make non-Muslims pay all the taxes of the quarter, including those of Muslims. Possibly one of those non-Muslim subjects, or a righteous Muslim resident, came to Akkirmani and asked whether Muslims were allowed to do that. Akkirmani pronounced that if the taxes were for the sake of the public and the protection of the area, they should be divided among all per head and should not be imposed only on non-Muslims. He then changes to a scholarly sermon style, basing on a Quranic statement and explanation of it by Atâ (d. ?), he states that it would be better

[39] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 173a.

[40] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 151a.

(*hayr*) to avoid oppression.[41] In other words, Akkirmani took non-Muslim subjects as the oppressed and the Muslims as unjust. More importantly, it is very likely that non-Muslim subjects identified Ali Akkirmani as someone who could provide solution to their problems or support their stance in the court and thereby applied for his fatwa.

Non-Muslims' application to the mufti of Akkirman was not merely in the cases they engaged with Muslims; they brought their own internal problems to the mufti as well. Zeyd-i *zimmî* (non-Muslim subject) was about to depart, with his own choice to the lands of Polish-Lithuanian Commonwealth to sell a few captives of his, who reached puberty. Non-Muslim Amr, who heard Zeyd's trip, offered him to pay ten gold coins (*filori*) for selling his two captives as well. Zeyd went to the Polish (*Leh*) lands, yet he did not return back. Hereupon, Zeyd's father accused Amr to send his son to Polish lands and held him responsible. Akkirmani was asked whether Zeyd's father was able to proceed against Amr. According to Akkirmani, he could not, since Amr did not force Zeyd to depart. It was Zeyd who decided to go on his own will. He then ended the answer with a reference to a jurisprudential principle (*kâide*) meaning that the act of the free agent's cannot burdened on anyone else (*Fâil-i muhtârın fiili gayra muzâf olmaz*).[42] This fatwa in the Book of Litigations (*Kitâbu'd-Davâ*) shows how non-Muslim subjects were also aware of the authority of the mufti's fatwa, either in the court or even without it. This example was not an exception.

Another fatwa in the Book of International Law (*Kitâbu's-Siyer*) revolves around two non-Muslims, Zeyd and Amr, the former desired to get married with the latter's daughter. Amr was against this marriage due to the difference in religious identities, for Zeyd was Greek Orthodox (*Rûm*) while he himself was Armenian (*Ermenî*). After Zeyd accepted that she did not have to change her religion, the marriage took place. It seems that Zeyd later changed his mind, because it was asked whether he was allowed to make her turn to his religion by force and beating. It is possible to see Akkirmani's perception of non-Muslims and their internal differences. He states that he was not allowed to do so, for non-Muslims all constituted a single nation (*küfür millet-i vâhidedir*) and therefore each community of non-Muslims (*zimmiyye*) were left as they were.[43] Other examples also can be found in different chapters.[44]

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[41] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 152a.

[42] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 212a.

[43] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 69b-70a.

[44] For example, in the Book of Litigation, we see Akkirmani answering about a dispute on inheritance between two non-Muslim subjects. Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 232a.

It is worth asking why non-Muslim subjects needed to apply the office of mufti in their issues, although a mufti did not have the right to impose his opinion and make an official judgment. The most sensible explanation is that the mufti had an authority and that holding a fatwa from him makes one more advantageous in the cases of conflict that may end up in the judge's court.

To sum up, Akkirmani constituted an alternative legal platform for the common people. People came to his office and wanted to include him in their disputes. They could present the fatwas to support their cases in the court. Or else, in some case, Akkirmani's office served as a legal platform, where the litigants or individual questioners could get an opinion related his religious or legal issue.

Despite the absence of tangible evidence proving Akkirmani's fatwa's efficiency in the legal procedure, his opinion on the bindingness of fatwa was clear. It was inquired to him that:

> Question: If Zeyd has a fatwa (fetvâ-yı şeriyye) and sultanic order (emr-i şerîf) supporting a claim, what does the judge deserve according to law (şeran) who neglects them and adjudicate according to his own will contrary to the honorable law (şer-i şerîf) under the influence of bribe that he takes?
>
> Answer: He becomes accursed with the words of the Prophet (lisân-ı şâri). It was also reported that bribery during judgment is infidelity and the judgment of the bribed judge is not valid for the Prophetic tradition that "Allah cursed the briber and bribed (Laana'l-lâhu er-râşî ve'l-mürteşî) is famous."[45]

In the part of references (*nakil*), he directly quotes various passages from different books about the prohibition of bribery. Akkirmani's focus on bribery might seem overshadowing neglecting fatwa and sultanic order, it was possibly because bribery was the most condemned act for a judge. In the margin of the fatwa text in copy of Hekimoğlu 405, another mufti's fatwa about a judge deciding against the books of fatwa (*fetâvâ*) was added.[46] In copies of Veliyyüddin 1970 and Hafid Efendi 98, it was written on the margin of the fatwa "If a judge decides contrary to the honorable law (*hilâf-ı şer-i şerîf hükm etse kadı*)" and "What a judge deserves who decides on

[45] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 183b-84a.

[46] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 183b.

contrary to the law (*hilâf-ı şer hükm eden kadıya lâzım gelen*)" respectively.[47] In other words, neglecting fatwa was understood as a part of judging against *şer*.

Still, one cannot be sure whether the fatwas were being used in the court. If they were not, what does this mean? I propose that even if these fatwas did not take place in the formal legal procedure, they were still functional. It shows that the office of mufti formed an alternative legal platform. Boğaç Ergene, examining the court records of Çankırı and Kastamonu, states a similar opinion. Despite their absence in the courts as officials and theoretical non-bindingness of their opinions, the muftis of Çankırı and Kastamonu's fatwas "played a noteworthy role in the processes of dispute resolution." In addition, Ergene is aware that the court records are not enough sources to assess the nature of legal presence of muftis, their relationship with the court officials and involvement in the court processes formally or informally other than answering the questions and his role in dispute resolution.[48] In the same vein, Fethi Gedikli suggests that "Fatwa must have resolved many disputes before the case was brought to the court."[49] Thus it would be justified to think that Akkirmani must have been like a legal mediator, which did not have right for judicial sanction nor investigation. In other words, the mufti was solving the problems without need for trial.

5.4 Legal Advisor

The mufti of Akkirman also acted as legal advisor for both qadi and litigants/respondents. Qadi might have needed to consult with the mufti about a case. Despite their same educational background, why a qadi even need to confer a mufti?

Ali Akkirmani was appointed both the mufti of Akkirman and professor to el-Hac İbrahim Madrasa. Therefore, in addition to giving fatwas, he taught at the madrasa. This made his juristic knowledge fresher and more reliable. Qadis, on the other hand, were busy with judicial issues as well as other administrative and municipal duties such as assignment of fiefs, general supervision of tax collecting and local registers,

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[47] Akkirmani, *Fetâvâ-yı Akkirmani*, Hafid Efendi, 98: 93a; Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 138b.

[48] Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)*, 31.

[49] Gedikli, "Osmanlı Mahkemesinde Fetva Kullanımı ve Fetva-Kaza İlişkisi," 218.

overseeing of pious foundations and the other affairs of scholars.[50] That's why, in general, qadis had limited time to turn back to the scholarship. If a qadi felt insecure about evaluating a case in terms of scholarship, he would appeal to a mufti to take his opinion, for his scholarship is more reliable. Qadis also might have taken an expert opinion just for the sake of consultation. In addition, the Ottoman law has become a more complex body of rules requiring specialization towards the late sixteenth century including different codes of law (*kânunnâme*), sultanic orders (*emr-i şerîf*), edicts (*fermân*), charters (*berât*), imperial commands (*mühimme*) and fatwas of the chief muftis (*fetvâ-yı şerîfe*). Some of them predetermined qadis' judgements in certain issues. Thus, qadi occasionally needed an expert who continued to engage the theoretical aspects of the law. In this context, Akkirmani fulfilled this duty.

It would be conceivable to speculate that the fatwas about the act of qadi including expressions "Can qadi do ... ? (*kadı ... e kâdir olur mu?*)" "If qadi judges that ... is it valid? (*kadı ... hükm eylese nâfiz olur mu?*)" "How should qadi judge? (*kadı nasıl hükm eder?*)" were most likely used in the court; either asked by qadi or a litigant. Also fatwas related to the judgment procedure, which were placed mainly in the Chapter of Litigations (*Kitâbu'd-Davâ*) and the Chapter of the Etiquette of the Judges (*Kitâbu Edebi'l-Kadı*) were very likely asked by qadis in general. As it was mentioned in the third chapter that the percentage of the number of fatwas in the Book of Litigations were predominant among all sections. This makes us think that Akkirmani was frequently involved in legal procedures through his fatwas. In a fatwa, he was asked:

> Question: Is it legal to take a motherless child's asset from his father's use and give it to a trustworthy man, because the father was a wrongdoer and unreliable man wasting the assets and the qadi was afraid that the assets were to perish?[51]

The emphasis on the qadi's intention that he was afraid of the assets to perish implies that the questioner was qadi. He was not sure about the legality of his judgment and consulted with the mufti. Similarly, a question was about the start time of a qadi's right to get the share from the judicial fees that were collected in the courts (*mahsûl-i kazâya istihkâkı*); whether when he got the post while he was in the Abode of Happiness (*Âsitâne-i Saâdet*) or when the letter reached [to the city

[50] Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, 74-78.

[51] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 168a.

he appointed].[52] This one was most probably asked by this qadi or the agent of him to find out his rights. He must have felt insecure with his knowledge and went to the mufti to ensure.

In another fatwa, Zeyd had a case with Amr and the former was called to come to the court three times. Yet he neither accepted nor rejected the allegations, kept his silence and did not come to the court. It was posed to the mufti how to act in this case. This was obviously a case related to legal procedure. It seems that the qadi was not sure how to behave and thereby conferred with the mufti. Akkirmani, in the role of legal counselor, informed his questioner satisfactorily:

> Answer: If his disobedience and obstinacy become certain before the qadi, the qadi confirms this with the testimony of people (*avân*). If he was not able to do that, he asks for the help of the governor to bring him. Afterwards, the claimant should provide evidence of his claims. If he could prove his case, the qadi is allowed to decide on his imprisonment and beating and other punishments.[53]

It was addressed in another question to Akkirmani that:

> Question: If such and such happens, some reliable (*bazı sikât*) confirm that the woman would not be lawful to marriage (*helâl*) for his first husband. Is this claim true?

Akkirmani replies with a "Yes" and gives the references.[54] It is very probable that the qadi became aware of this issue either from some scholars around or saw in a book, and he got confused. Since this information will affect his judgment, he wanted to be sure about it and came to consult the mufti.

All fatwas in this chapter showed how qadis applied to Akkirmani, to get to know certain issues. It could be assumed that Akkirmani's education in a well-known madrasa might have led qadis' to consult with Akkirmani. More likely, the fact that he was a native to the city and knew its conditions and occupying the muftiship of Akkirman for years were effective in qadis' seek of advice. Because the qadis of

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[52] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 182b.

[53] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 174b.

[54] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 14b.

Akkirman, were coming relatively smaller districts such as Vulçıtrın, Şumnu, Bac, Kili, Çorlu and Livadya[55] and rotating probably in short tenures. They thus were not as familiar to the conditions in Akkirman as Ali Akkirmani was. Even if some of these questions were asked by other scholars in the town or ordinary people, fatwa acted as a legal advice for qadis, either asked by himself or a litigant.

5.5 Serving Imperial Purposes

In this part, I will try to explain how the existence and activities of Akkirmani served the imperial objectives. Akkirmani's fatwas reveal that he considered himself somehow related to the imperial center. Also, Akkirmani's existence in imperial commands implies his role as a scholar-bureaucrat and the center did not perceive him a sole theoretical actor.

As we saw above in the events around Kemerli Abdi and Kaya, the central government addressed to the mufti when they needed. We can assume that those events were not exception. The imperial command about a corrupted trustee of the endowment of Yavuz Sultan Selim sent to the mufti of Akkirman in the spring 1592 also indicate this. The command notifies that the trustee and his sons showed the income of the endowment in 1586, 1588, 1590 and 1591 less than its real value and took the missing part for themselves.[56] This command might have addressed to Ali Akkirmani, because we know that he was appointed to the office in 1000/1591-92. However, we must have more detailed information about the date of his appointment to be sure if this one was really referred to him.

As it was explained in the introduction, Islamic jurisprudence and state authority has become amalgamated with Sharia at the end of the sixteenth century. The fatwas of the chief mufti were not solely unbinding opinions anymore, they were approved by the authority of the sultan and particularly qadis were ordered to follow them. On the other hand, sultanic edicts and codes of laws were frequently referred and included in the fatwas of the muftis.

The Ottoman law was not a top-down legal system which was sanctioned solely from the imperial center. Nevertheless, as in the other early modern empires in Eurasia, centralization to some degree was a valid phenomenon in the lands of the Ottoman Empire as well. Sultanic decrees and fatwas of the chief mufti -supported by sultanic

[55] Beyazıt, *Osmanlı İlmiyye Mesleğinde İstihdam (XVI. Yüzyıl)*, 232.

[56] A.DVNSMHM.d., 69/593, Devlet Arşivleri Başkanlığı Osmanlı Arşivi.

authority- predetermined some certain issues from Istanbul and scholar-bureaucrats were expected to implement them in parts of the Empire.

Akkirmani, one of those scholar-bureaucrats, was educated from one of the most esteemed madrasas of the Ottoman Empire, and his way of perceiving the Ottoman law was formed accordingly. Together with other scholar-bureaucrats in the city, he represented the empire, particularly its law. Akkirmani distinguished from the other officials with a characteristic, that Akkirman was his hometown where he had left to receive education in Istanbul and returned back. In this sense, Akkirmani's appointment had certainly a positive effect in the eyes of the people in terms of the legitimacy of the empire's rule.

In addition to that, Akkirmani's qualified education must have made him reliable at the eyes of the center on the interpretation and implementation of sultanic decrees and chief mufti's fatwas. As I indicated above, it was probable that a qadi might have needed a mufti to learn better this much complexed body of law. Or a reckless qadi might not have been taking care of the imperial orders or fatwas, as it happened in the late sixteenth century in the various realms of the empire on various matters.[57] In both circumstances, the mufti took part in and ensured that they were implemented.

Multiple opinions within the madhhab could be articulated about an issue. These opinions hierarchically were classified by the jurists in time, and some of them came into prominence as authoritative (*müftâ bih*) opinions. Under the Ottomans, qadis were to judge depending on the most accurate (*esahh-ı akvâl*) and/or the authoritative opinion (*müftâ bih*), mostly determined by the chief mufti's fatwa. In certain issues the chief mufti would have declared weak opinions to become authoritative. For example, in 951/1544, exchange of waqf with property (*istibdâl*) was regulated relying to the sultanic order (*emr-i sultânî*), disabling qadis to judge themselves even if they based their decisions on the most accurate or reliable opinion.[58] Similarly, on the permission of custodian for marriage in 951/1544[59] and the cash endowments in 955/1548,[60] qadis were ordered to follow the weak opinions of Imam Muhammed and Imam Zufer respectively.

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[57] This decree issued in June 1631 was sent to the judgeships of Rumelia, or even with a wider description, from Ankara to the border of Moldavia, which also comprises Akkirman. It issues that qadis and other officials were ignoring the orders about the ban of tobacco, therefore, new officials were appointed to ensure its enforcement, and current officials were warned to implement the law. A.DVNSMHM.d., 85/380, Devlet Arşivleri Başkanlığı Osmanlı Arşivi.

[58] Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri IV. Cilt*, 48. For a detailed and substantial analysis about this issue: Kahya, "İstibdal Uygulamaları Işığında Osmanli Vakif Hukukunun Dönüşümü," 59-63.

[59] Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri IV. Cilt*, 39.

[60] Mandaville, "Usurious Piety: the Cash Waqf Controversy in the Ottoman Empire."

It requires to specialize in the scholarship to be able to know the authoritative opinions. One can frequently encounter in *Fetâvâ-yı Akkirmani* a fatwa mentioning the authoritative opinion at the present time as "in our times, the authoritative/relied/best/chosen opinion is this (*fî zamâninâ müftâ bih/mamûl bih/evlâ/muhtâr şudur*)." For instance, on the preference of testimony (*şehâdet*) over qadi's word, Akkirmani refers to Imam Muhammed's opinion putting forward that the former is prioritized over the latter. Then, he states that "In our times, it is said that to issue the fatwa and practice basing on Imam Muhammed's opinion is reliable."[61]

In another fatwa, Akkirmani clarifies "in our times (*Fî zamâninâ*), qadi's opinion is not accepted other than writing a qadi to a qadi, so, *zâhir[u'r-rivâye]* narration[62] is not preferred. The selected (*muhtâr*) and applied (*mamûl bih*) opinion is Imam Muhammed's opinion through the narration of Ibn Semâa."[63] Normally, muftis would issue fatwas preferring the most authoritative and widely transmitted opinions of the three founding imams of Hanafi schools (*zâhiru'r-rivâye*) to those not widely transmitted opinions (*nâdiru'r-rivâye*).[64] However, Akkirmani clarifies that the reliable opinion in his times is Imam Muhammed's with the narration of Ibn Semââ, which is not widely transmitted and not the most authoritative opinion (*nâdiru'r-rivâye*).[65] Therefore, Akkirmani indicates a certain choice in his time and informs the qadi about it. These examples as well as other numerous ones reveal that the mufti had an important role to ensure that qadis relied on the preferable opinions.

Numerous fatwas in *Fetâvâ-yı Akkirmani* affirm that Ali Akkirmani proposed the imperial orders and fatwas to be implemented. For example, a question was raised about the cash endowments that "After the endower passed away, is it allowed to add half asper to his condition of eleven and half aspers out of ten aspers? (increasing the profit from 15% to 20%)" In his response, Akkirmani first mentioned *Eşbâh ve'n-Nezâir* on the immutableness of the condition of endower. Then he referred

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[61] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 83b.

[62] *Zâhiru'r-Rivâye* is the common name of Imam Muhammed's treatises. It comprises the opinions of three founding fathers of Hanafi school, Ebu Hanife, Imam Muhammed and Ebu Yusuf. Kaya, "Zâhiru'r-Rivâye."

[63] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 181a.

[64] Mehmed Fıkhî el-Aynî, *Risâle fi Edebi'l-Müftî [ ]*, ed. Osman Şahin (İstanbul - Beyrut: Türkiye Diyanet Vakfı, 2018), 76-77. For *nâdiru'-rivâye*: "The āhir al-riwāya corpus was followed by al-nawādir. The main feature distinguishing al-nawādir from āhir al-riwāya was that the legal opinions narrated in the former were not widely transmitted. Consequently, the opinions found in this corpus were viewed as less authoritative than those of āhir al-riwāya, or second-order precedent." Salman Younas, "Authority in the Classical anafī School: the Emergence& Evolution of āhir al-Riwāya," *Islamic Law and Society* 29, no. 1-2 (2021).

[65] Cengiz Kallek, "İbn Semâa," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: TDV Yayınları, 1999 1999).

to the orders of Süleyman I, which were sent to the Chief Mufti Ebussuud Efendi and two governors of the sanjak of Mora, Osman Şâh and Muhammed Bey, at Rebîu'l-âhir 957/1550, Muharrem 973/1564 and Safer 980/1572 respectively. He cited the order that profit cannot be more than eleven and half out of ten aspers and added that the successor sultans also continued this practice and this is still valid today. Therefore, this practice is widespread and it is incumbent to obey those who vested the authority on the cash endowments in the Ottoman lands. (*Memâlik-i Osmâniyye'de olan evkâf-ı nükûdda ûlu'l-emre ise itâat vâcibedir.*)[66] The sultanic edicts of Muharram 973/1564 and Safer 980/1572 were also referred in another fatwa, in which the custodian wanted to loan the money of the orphan with the profit fourteen out of ten aspers (with 40% profit).[67]

Similarly, when -very likely- a qadi was not sure about how many aspers should he take as fee for the distribution of the inheritance, he asked the opinion of the mufti. After stating the disagreement of late Hanafis, Akkirmani referred to the sultanic command that fifteen out of thousand aspers is taken from the portion of the inheritance, reminding that this is written on the charters (*berevât*, plural of *berât*) of qadis.[68] Likewise, about an issue related to an extraordinary endowment (*avârız vakfı*), Akkirmani quoted the fatwas of the Chief Muftis, Ibn Kemal and Ebussuud.[69] These fatwas show the function of the mufti in the sense that he assured the commands of the imperial center were always on the table.

Akkirmani referred to the state authority in various situations. For example, in the absence of the current qadi and due to the confusion stemmed from the deputation letters there were two claiming to be the deputy. The common people wanted to appoint Amr as the deputy of qadi and brought him to the court. In the question it was asked "What do they all deserve? (*Mezkûrların cümlesine şeran ne lâzım gelir?*)" Akkirmani announced that "It is the qadi who can appoint Amr on behalf of himself; judgment cannot be conducted with the appointment of the common people. ..."[70] Here, the disagreement over the deputation of qadiship lead people to the mufti. In another similar circumstance, where the center assigned someone as qadi in place of the current qadi, a few people strove to maintain the current one's qadiship, the mufti advocated that "Not just a few people, even if all the inhabitants

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[66] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 109b-10a.

[67] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 150a.

[68] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 179b-80a.

[69] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 112b.

[70] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 182b.

of the town would gather and made him qadi, he still would not be qadi."[71] In these cases, Akkirmani invoked the state authority in the appointment of the qadi and notified that the appointment of the people is not valid. In some examples, we see Akkirmani directed the case to the imperial council (*Dîvân*). Someone, who had been a subject of a cavalryman (*sipâhî*), became a cavalryman too and thus rejected giving taxes to his former cavalryman as he had done annually before and stated that he would leave this village. It was asked whether the former cavalryman could collect the tax that he had been doing and prevent the former subject to leave the village. Akkirmani led them directly to the imperial council and notified that their case would be judged according to the sultanic order.[72]

In the Islamic jurisprudential tradition in general and Fetâvâ literature in particular, the theme of "unjust ruler" was common. There are examples of the muftis who charged the ruler from different times and spaces. Here, I emphasize the criticism on the ruler himself (*emîr*), without separating him and his officials. The mufti of Akkirman, however, was comfortable to challenge the local officials when needed, yet he did not make any points aiming at the sultan. Hence, Akkirmani excluded the primary authority from his criticisms, on the contrary, contributed and preserved sultan's image of the just ruler. A fatwa on the discharge of a qadi, who was appointed supposing to be just, though not only did he accept bribe but also gathered sinners and drank. In the first answer, Akkirmani just said "Yes" and gave his references. Then, he placed another response (*cevâb-ı âhar*) in which he declared that "The felicitous sultan to whom resorted the world (*Saâdetli pâdişâh-ı âlem-penâh*) appoints qadis supposing their fairness (*adâlet*). He does not consent with such misdeeds and aggrievance. He does not assign them knowing their misbehaviors. . . ."[73]

5.6 Conclusion

Based on the mufti of Akkirman, it seems that Haim Gerber was right when he claimed that muftis "did not sit in an intellectual ivory tower, pondering his law books." Instead, "he confronted these books with real life."[74] Muftis, to Gerber, had

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[71] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 167a-67b.

[72] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 150a.

[73] Akkirmani, *Fetâvâ-yı Akkirmani*, Hekimoğlu Ali Paşa, 405: 169a, 69b.

[74] Gerber, *Islamic Law and Culture, 1600-1840*, 34-38; Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective*, 86.

more socio-political functions in the province. Ali Akkirmani, as it was observed throughout this chapter, engaged with different aspects of the people's life. He was the authority that people resorted to against the officials and the authority for all to learn the religious and legal knowledge. The mufti was a legal rival or balancer to qadi while reminding his borders and informing the ways he should follow in his adjudication. While challenging the local power-holders, who were strained due to the difficulties in the late sixteenth century Ottoman province, oppressed people in different ways, Akkirmani relied on his juristic and imperial authority, referring to the imperial edicts and decrees. In other words, he utilized the possibilities of the late sixteenth century, namely the amalgamated Ottoman law, to confront the challenges of the same period.

6. MAKING LAW IN THE FRONTIER

Early in 1606, the governor of Akkirman Ramazan sent a report (*ilâm*) to Istanbul demanding the governor of Bender to help him against the enemy. Upon this, the center issued an imperial decree:

> Decree to Ramazan, the governor of Akkirman,
>
> You reported that the castles of Kili, Akkirman and Bender were placed at the other side of the Danube River and that there were Nogays and Crimeans at one side of them, Ochakivian Cossacks (*Özi kazağı*) at another. [These three castles] were also located around the Polish (*Leh*), Moldavian (*Boğdan*) and Wallachian (*Eflâk*) castles. God forbids, if the enemies invade an area and raiders hurt the poor subjects and cause damage, the governor of Bender ought to come with his soldiers and help banish the raiders, I ordered that:
>
> If the enemies invade an area as you pointed or raiders cause damage, you send man to the governor of Bender ,and both of you together ambitiously get rid of the damage of the enemy and raiders. However, be careful to not act with this excuse in a way that would harm peace and safety in the Polish and Crimean lands.[1]

In this imperial command, the governor Ramazan informs the Sublime Porte of the frontier nature of Akkirman with its all aspects. First, he indicates that the line of Kili, Akkirman and Bender was located beyond the Danube River, which was primarily considered the line of holy war and raids (*gazâ*). However, he implies this line was even more of a hot conflict area. Then, he talks about the main raider groups in the area: Nogay and Crimean Tatars versus the Ochakavian Cossacks. As

[1] A.DVNSMHM.d., 18 Numaralı Mühimme Zeyli Defteri: 36a.

mentioned in the first chapter, the former was being backed by the Ottomans whereas the latter by the Polish and Russians. In addition to geographical location and raider groups of the area, he continues, Polish, Moldavian and Wallachian castles were a constant threat for the security of the borders. Although Moldavia and Wallachia were under the ascendancy of the Ottomans, they still seem to have caused problems. It also seems that there was peace at the time of the decree between the Polishes and the Ottomans. Nevertheless, Ramazan also perceived them as potential hazards.

The picture of the area was that it was always ready to be a place of raids and border conflicts. Enslaving the enemy subjects, being enslaved by the enemy raiders, selling and being sold, plunder, booties, change of the property rights. These and similar issues stemmed from the nature of the frontier. Reciprocal raids, thereby, shaped the daily life of people living in the environs of Akkirman. In this region, the mufti of Akkirman confronted with several relevant issues and interpreted the Ottoman imperial law accordingly.

6.1 Akkirman as the Frontier

Up until the mid-sixteenth century, the Danube River was the major field of holy war and raids (*gazâ*) in the northwestern borders of the Ottomans and constituted a natural border between Abode of Islam and Abode of War.[2] Joining Özi and Bender to Akkirman's hinterland in 1538, the area of gazâ was to shift to the northern bank of the Danube. Northern steppes of the Black Sea, where Dniester, Southern Bug and Dnieper watered and more and more Cossacks and Tatars accumulated, now hosted intense and mutual raids. They were subjects of and/or protected by the Ottoman Empire, Polish Lithuanian Commonwealth and Tsardom of Russia, and harassed each other's frontier villages.

When Akkirmani arrived in Akkirman, the city was already an active area of raids. The Cossacks accelerated their activities over the Dniester and Danube as well as shores of the Black Sea, particularly with the ascension of Sigismund III to the Polish throne in 1587.[3] The imperial center sent a command to the voivode of Moldavia (*Boğdan*) in November 1589. It was said in that the Polish bandits were damaging

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[2]Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 48.

[3]Dariusz Kołodziejczyk, "Poland," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009); Krzysztof Wawrzyniak, "Ottoman-Polish Diplomatic Relations in the Sixteenth Century" (MA Thesis, Bilkent University, 2003), 65.

Bender, Akkirman and Özi, thereby he was ordered to be cautious against them.[4] Meanwhile, an imperial command reached to the governors of Silistre, Bender and Akkirman as well as qadis of several towns:

> From Wallachia and Moldavia and other directions, over the Danube River and straits, some raiders and bandits in the region come and attack on the ships, kill the men and loot the properties, they also raid the houses of prosperous people in villages and kill them ...

The governors and qadis were warned to let people go the Danube only with the soldiers.[5] An imperial command sent to the voivode of Transylvania (*Erdel*) in February 1590 also reveals Akkirman's frontier nature:

> For a time bandits of the Polish king in the border were not concerned with their own business; they exceeded the limits and caused many harms in Bender and Akkirman which are within my Well-Protected Lands. As my sultanic order required Gazi Giray Han, the Khan of Crimea attacked them with Tatar soldiers ... [6]

In the early January 1592, the scholars, pious and poor people living around the castle of Akkirman sent a report (*mahzar*) to the center. They complained from the frequent incursions of the enemy and requested a castle to be built on the steppe of Özi both for their comfort and sheep stables to be revived again.[7] Again in the same days, the imperial center sent a command to the governor of Akkirman to ensure that the governor of Bender was not interfering with the raiders (*akıncı*s) employed for the security of Özi.[8] In February 1592, the imperial center strictly warned the governors of Akkirman and Özi, gave instructions about that they be in communication with the governor-general of Rumelia and be careful against Cossack threat. At the same time, they were cautioned to not violate the peace with the

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[4] A.DVNSMHM.d., 66/145, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 70.

[5] A.DVNSMHM.d., 66/121, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 61.

[6] A.DVNSMHM.d., 66/461, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 218.

[7] A.DVNSMHM.d., 69/80, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 42.

[8] A.DVNSMHM.d., 69/416, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 208.

Polish king.[9] In March 1592, we learn from a command sent to the qadi of Akkirman that contrary to the present peace, some Tatars raided the Polish lands, took many Polish subjects as captives, carried them over the other side of the Danube and sold them.[10] After a few months in September 1592, a similar command was sent to the governor of Akkirman in which Tatars were ordered to release and bring back the Polish captives that they seized in their raid against Polish lands violating the imperial pledge (*ahd-i hümâyûn*).[11] It seems that the imperial center struggled to take Tatar raiders under control. There are many other similar imperial commands through which we learn that Tatars were breaking the imperial pledge, Cossacks were a constant threat and the governors were frequently entrusted with military missions to secure the area.

In 1594, possibly soon after Sinan Pasha launched a campaign against the Habsburgs, the governor of Bender and Kili reported that about 800 Russian Cossacks suddenly attacked at night on the suburbs of Akkirman through their hidden boats (*şaykas*) and burned the market of the town, killed many men and returned with their boats, full of booties.[12] After a year, Selaniki records that the Tatar Khan Gazi Giray responded to them in a similar way. Selaniki states, he damaged so much in a little while that Tatars took the revenge of not only Cankirman (Özi) and Akkirman, but Crimea as well.[13]

The first years of Akkirmani's tenure in Akkirman 1592-1594 corresponded to these occurrences. As we will see below, the problems he encountered just emanated from these. However, Akkirman's fate was about to get darker in the following years as Grand Vizier Sinan Pasha's willingness for the war. The war erupted between the Ottomans and Habsburgs owing to the initiatives of Grand Vizier Koca Sinan Pasha (d. 1596), despite the chief mufti Bostanzâde (d. 1598) and Hoca Sadeddîn Efendi's (d. 1599) opposition.[14] Though the main target of the Ottoman army was Yanıkkale, located in contemporary Hungary's Győr city,[15] the riots of Moldavian and Wallachian principalities caused profound consequences for Akkirman and its

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[9] A.DVNSMHM.d., 69/274, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 137.

[10] A.DVNSMHM.d., 69/443, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 222.

[11] A.DVNSMHM.d., 69/20?, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 21.

[12] Selânikî Mustafa Efendi, *Tarih-i Selânikî I (971-1003/1563-1595)*, ed. Mehmet İpşirli (Ankara: Türk Tarih Kurumu Yayınları, 1999), 363.

[13] Selâniki, *Tarih-i Selânikî I (971-1003/1563-1595)*, 400.

[14] İsmail Hami Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115* (Ankara: Türkiye Yayınevi, 1972), 128-30.

[15] Gábor Ágoston, "Hungary," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009).

surrounding area.

Imperial command in March 1594 entrusted the governor of Bender and the people of Akkirman to construct together two castles and a shipyard at a proper place in Akkirman strait. The reason for this command was the petition (mahzar) that the notables of Akkirman had delivered to the Sublime Porte:

> One thousand and five hundred musketeer Cossacks came at Akkirman at night with their boats through the Dnieper River (*Özi demekle marûf nehr-i âtîye*). They burned about six hundred of our homes, slaughtered and captured many. When they reached to sell some captives, their intention to invade the castle of Akkirman was heard ... [16]

Ttwo months later, in April and May 1594, imperial decrees commanded the governors of Bender and Akkirman to be prepared against the assaults of the Cossacks coming with boats. This time, different sizes of galleys were sent from Istanbul to support Akkirman's defense against the Cossacks.[17]

In November 1594, voivodes of Wallachia, Moldavia and Transylvania joined to the Holy League and rebelled against the Ottomans.[18] We learn from Selaniki that in early January 1595 (Rebîu'l-âhir 1003), when the weather was freezingly cold, the voivodes and subjects of Moldavia and Wallachia rioted. Selaniki labels them as "accursed unbelievers" (*melâîn-i bî-dîn*) and informs that they rebelled at odd times (*gâh u bî-gâh isyân u tuğyân etmek âdetleri olmağın*). It was just a precaution so that the governors and fief holding soldiers of the banks of Danube River, namely Silistre, Niğbolu, Bender and Akkirman, were not called for campaign.[19]

After a few months in the spring of 1595 (Cemâziye'l-âhir 1003), the subjects, nobles and voivodes of Moldavia and Wallachia rebelled again. They said:

> We were obedient and subservient to the sultans of the Ottoman dynasty from ancient times (*kadîmü'l-eyyâmdan*), we used to present our poll-

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[16] A.DVNSMHM.d., 72/500, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 255.

[17] A.DVNSMHM.d., 72/618, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 314; A.DVNSMHM.d., 72/21, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 17.

[18] Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115*, 137-38.

[19] Selâniki, *Tarih-i Selânikî I (971-1003/1563-1595)*, 418-23. This measure seems to have been continuing in the the winter 1596 (Cemâziye'l-âhir 1004): Selânikî Mustafa Efendi, *Tarih-i Selânikî II (971-1003/1563-1595)*, ed. Mehmet İpşirli (Ankara: Türk Tarih Kurumu Yayınları, 1999), 565.

> taxes (*cizye*) and gifts (*pîşkeş*) and hope for mercy and compassion. In present time, bribes with oppression and tyranny, the usurer janissary and other soldiers bothered us and we became smashed. [20]

Following this riot, Selaniki records, the Hungarians came to support Wallachians as Polishes assisted Moldavians. They all together attacked the castles, cities and towns located around the banks of the Danube, including Akkirman, killed men, women and children, according to Selaniki. Gazi Giray Han and Tatars came to help, yet due to Giray Han's imprudence, he was busted and nearly fled. Then, a few thousand Tatars stroke back on the "accursed unbelievers" assaulting Akkirman and rescued the city.[21] Katip Çelebi narrates the same incident that in early 1595, the voivode of Moldavia, Aron Tiranul besieged Akkirman and bombarded the castle with canons. The inhabitants of the district called for help from Gazi Giray Han before. He sent assistance with Adil Giray together with soldiers and they reached there when the people of the castle were about to be perished and saved them from the infidels.[22] We learn an imperial command issued in May 1595 that the center also sent small galleys (*kalite*s) and artillery corps (*cebeci*s) to aid the defense of Akkirman. They were ordered to stay there until the Hungary campaign was over.[23]

The uprisings of Wallachians and Moldavians brought about a change in the administration of the region. To this year, these principalities were left as they were unless they were paying their tributes and remained loyal to the Ottomans. Due to rebellious acts in the recent years, the imperial center made Wallachia and Moldavia as ordinary Ottoman provinces (*vilâyet*s). Cafer Paşa, former governor of Şirvan, appointed as governor-general of Moldavia governorship, as Satırcı Mehmed Paşa, former governor-general of Anatolia as that of Wallachia.[24] The Ottomans did not insist in this new arrangement; when Moldovia and Wallachia were brought back under the Ottoman ascendancy again in 1601, their status was restored to its previous tributary version.[25]

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[20] Efendi, *Tarih-i Selânikî II (971-1003/1563-1595)*, 450.

[21] Efendi, *Tarih-i Selânikî II (971-1003/1563-1595)*, 451.

[22] Kâtib Çelebi, *Fezleke 1 [Osmanlı Tarihi (1000-1065/1591-1655)]*, ed. Zeynep Aycibin (İstanbul: Çamlıca Basım Yayın, 2016), 67.

[23] A.DVNSMHM.d., 73/1224, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 561.

[24] Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115*, 146.

[25] Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115*, 208.

When the summer of that year (June 1595) came, the region was still far from stability. People who suffered from the raids went to the Sublime Porte to submit their complaints. They said that "there were still plenty of accursed [Cossacks] in their boats (*şaykas*) ready to cross over. Help! [Send] soldiers, Help! [Send] warriors (*meded asker meded leşker*)" They continued:

> ... There was not left any town and village where they burned it with fire, hanged bells on the minarets and ring them. There were left no more than castles of Ibrail, Varna, Bender, Kili, Akkirman, Cankirman, Isakcı, Ismail Geçidi, Silistre, Yerköyü, Ruscuk and Tutrakan; all of their ports and suburbs were destroyed. Allying with the subjects of Wallachia and Moldavia, more than a hundred thousand musketeers from the infidels of Transylvanian, Hungarian, Polish and Russian came and ruined the flourished and orderly lands of Islam that had been captured centuries before.[26]

Selaniki was harsh against the Moldavians and Wallachians. He depicts these principalities as "the place of enemy of the religion" and mentions the support of the Polish, Transylvanians and Russians sending soldiers in different pages. And he accuses the Ottoman center to be incautious against them.[27] Selaniki died in 1600, and did not see the next years. The reason for his unforgiving language was probably ongoing conflict during the last part of his life.

We can assume that this threat and pressure over the people continued in the following years. The war against Habsburgs was to come to an end in 1606, yet thanks to earlier domination over Moldavia and Wallachia in 1601, the regions became relatively steadier previously. This surely was true for the loyalty of Moldavia and Wallachia; reciprocal raids kept taking place and similar problems continued to emerge.

It seems that in these years, the main problem was uncontrollable Tatars, rather than Cossack and Polish threats. Thanks to an imperial command in September 1604, we know that Tatar raiders were plundering Moldavia and Wallachia and the subjects of the regions were disturbed. This time it was not governor or qadi of the province who was the interlocutor of the command, but the agha of Tatars. He was severely warned to not attack on the Moldavian subjects and threatened to be

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[26] Selâniki, Tarih-i Selânikî II (971-1003/1563-1595), 481.

[27] Selâniki, *Tarih-i Selânikî II (971-1003/1563-1595)*, 482.

executed in case he kept doing it.[28] An imperial command to the Crimean Khan in February lets us now that about eight hundred Tatars crossed over first Wallachian and Moldavian lands, plundered their stuff and took them captives.[29] Likewise in March 1605, the harassment of Tatars over the Moldavian and Wallachian subjects resumed.[30] On the other hand, Cossacks were constantly conducting raids over the Ottoman lands. Due to the reciprocal raids, the Ottoman Empire and Polish-Lithuania Commonwealth signed an agreement in 1607 to prevent raids in both sides.[31] However, it is very unlikely that that the agreement was effective to deter outlaw Cossacks. As several commands in June[32] and August[33] 1618 demonstrate, the Danube and Dniester banks remained as place of Cossack assaults.

In this context, a considerable amount of dwellers of Akkirman were to find their livelihood by the booties obtained through these raids. To recall Evliya Çelebi's depiction on the people of Akkirman:

> Mostly, its inhabitants are not elites, all people are merchants and warriors in the way of Allah (*ve mücâhid fî sebîlillâh halkı*) wearing clothes of the poor. Most of them put Tatar calpac on their heads, eat horse meat, wear lamb coat, drink boza and honey water. They are ghazis who go to monthly raids (*beş baş gazâsı*) to the lands of Cossacks saying "*mütevekkilen alallâh* (relying on Allah)," turn with booties. This is how these ghazis earn their livelihood with their swords.[34]

Daily life of the residents of Akkirman that was closely linked with the frontier realities still remained the same as before in the mid-seventeenth century. People made of their living either from trade or raids. Their raids would not mean "indiscriminate burning and plunder" always. Generally, they aimed to seize captives, to release in return for a ransom or to sell in the markets of the Black Sea ports.[35] This

[28] A.DVNSMHM.d., 75/357, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 180.

[29] A.DVNSMHM.d., 75/643, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 306.

[30] A.DVNSMHM.d., 75/154, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 90.

[31] Yusuf Sarınay Hacı Osman Yıldırım, *82 numaralı Mühimme Defteri, (1026-1027/1617-1618): Özet, Transkripsiyon, İndeks ve Tıpkıbasım* (Ankara: Osmanlı Arşivi Daire Başkanlığı, 2000), XII-XIV.

[32] A.DVNSMHM.d., 82/231, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 65; A.DVNSMHM.d., 82/238, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 68.

[33] A.DVNSMHM.d., 82/310, Devlet Arşivleri Başkanlığı Osmanlı Arşivi.

[34] Çelebi, *Evliyâ Çelebi Seyahatnâmesi V. Kitap*, 36b.

[35] Khodarkovsky, *Russia's Steppe Frontier: The Making of a Colonial Empire, 1500-1800*, 21.

was probably a widespread local practice in Akkirman and its environs, thus "there are plenty of loveable male and female captives in its market (*Bazarında mahbûb u mahbûbe esîrleri çokdur*)" as Evliya Çelebi accounts. [36]

Ali Akkirmani was the mufti of Akkirman and professor in el-Hac İbrahim Madrasa in the middle of this reality for roughly thirty years. As it will be revealed below, questions posed to Akkirmani concerning frontier activities, captivity, slavery and non-Muslims were scattered in a large area exceeding Akkirman's sphere. Therefore, fatwas in *Kitâbu's-Siyer* are of importance to understand Ali Akkirmani's interaction with actors from various places. Furthermore, the mufti considered the conditions of the frontier and its people while issuing fatwas. When it comes to raid activities in the Black Sea steppes, Akkirmani had to deal with nomadic or semi-nomadic people eating horse flesh and drinking *boza* (a drink made from malted millet), rather than city-dwellers. It would be unlikely that they were accustomed to central regulations and an imperial law. In these circumstances, imposing the imperial law must have been quite challenging for the local legal officials, namely qadi and mufti. It was in this context that Akkirmani shined as a regional frontier figure, coping with the relevant issues of applicants from nearby cities.

6.2 *Kitâbu's-Siyer* in the Seventeenth Century Provincial Mufti Collections

Kitâbu's-Siyer or *Kitâbu'l-Cihâd*, was one of the chapters in the books of Islamic jurisprudence. Jurists devoted this chapter for discussing relations between the Muslims and non-Muslims as individuals or groups. Under *Kitâbu's-Siyer*, a wide range legal obligations and their possible outcomes were covered; including war, peace, diplomatic relations, international trade and aliens as well as concepts such as contract of *zimmet*, apostasy (*irtidât*), rebels (*bâğîs*), poll tax (*cizye*), looting (*ganîmet*) and its distribution.[37]

In *Fetâvâ-yı Akkirmani*, there are 51 fatwas in the chapter of *Kitâbu's-Siyer*. As an example of *Fetâvâ* genre within Islamic jurisprudential tradition, *Fetâvâ-yı Akkirmani* deals with similar themes as other Islamic jurisprudential texts did in this chapter. These can be mainly mentioned as fifth (*pençîk*), land tax (*harâc*), changing property rights depending on the distinction between Abode of Islam-Abode of

[36] Çelebi, *Evliyâ Çelebi Seyahatnâmesi Beşinci Cild*, 112.

[37] Ahmet Yaman, "Siyer," in *TDV İslâm Ansiklopedisi*. https://islamansiklopedisi.org.tr/siyer.

War (*Dâru'l-İslâm-Dâru'l-Harb*), breakdown of contract of *zimmet*, poll tax, rights of Muslims in Abode of War, apostasy both for Muslims and non-Muslims, looting, taking captives etc. One can easily notice in these fatwas that slave and captive trade occupy a significant place. In addition, transition between Abode of Islam and Abode of War, and the legal consequences of it apparently reveal itself in Akkirmani's *Kitâbu's-Siyer*. Akkirmani's fatwas found in this chapter reflect the dynamic atmosphere of the frontier area, where constant raids and legal issues deriving from them took place.

One might raise the question that how can we be sure that the vivid view of transborder activities in *Fetâvâ-yı Akkirmani* really resulted from the fact that Akkirmani was located in a frontier city? In other words, do we certainly know that Akkirmani's fatwas were different from those of other provincial muftis? To address this question, I will briefly compare several fatwa collections of the provincial muftis in the seventeenth century of Skopje, Erzurum, Belgrade, Sivas and Makkah.

To start with, Pîr Mehmed Üskübi's (d. 1611) collection of *Fetâvâ-yı Üskübi* has sixteen fatwas in its chapter of *Kitâbu's-Siyer*. Five of them are fatwas reflecting the transborder activities, however, there is a balanced distribution with other themes such as land tax, poll tax and construction of church throughout the chapter. Also, it is hard to observe active frontier movements through Üskübi's fatwas.[38] *Fetâvâ* of Süleyman Efendi (d. 1667), who was appointed the mufti of Belgrade in 1058/1648 and later became judge of Makka, is a compilation of his fatwas during his Belgrade muftiship. The collection has far less fatwas in total, compared to *Fetâvâ-yı Üskübi* and *Fetâvâ-yı Akkirmani*, yet the number of fatwas in *Kitâbu's-Siyer* is identical with that of Üskübi. The overall picture of themes are also quite similar to *Fetâvâ-yı Üskübi*: solely a few fatwas can be associated with transborder activities, yet the rest was distributed in a balanced way in terms of themes.[39] As we turn our sight into Anatolia, *Fetâvâ-yı Bistami* of Vani Mehmed Efendi (d. 1685), the mufti of Erzurum between 1657-1661, emerges with 80 fatwas in the chapter of *Kitâbu'l-Cihâd*. Despite the high number, these 80 principally consist of fatwas related to the ownership of non-Muslims and their legal issues. Land tax issues (*arâzî-yi harâciyye*) seem to be the repeated theme in the chapter. Events of apostasy and/or conversion also occupy considerable place, though fatwas related to transborder relations are quite rare. Terms such as *Dâru'l-İslâm/Dâru'l-Harb* are mentioned only in 6-7 fatwas, yet almost none of them talks about concepts related to holy war (*cihâd/gazâ*) or plunder in *Dâru'l-Harb* such as fifth (*pençîk*), captive (*esîr*),

[38] Üskübi, *Fetâvâ-yı Üskübi*, Aşir Efendi, 133. I made research on the collection through this transcription: Keskin, "Fetâvâ-yı Üskübi Latinizesi ve Tahlili," 144-47.

[39] Süleyman Efendi, *Fetâvâ*, Süleymaniye Kütüphanesi, Şehit Ali Paşa, 684.

war (*kıtâl*), incursion (*istîlâ*) etc.[40] Therefore, despite the high number of fatwas in the chapter, it is obvious that *Fetâvâ-yı Bistami* differs from *Fetâvâ-yı Akkirmani* on not being located in a frontier area. Another collection, *Fetâvâ-yı Sivasiyye*, copied in 1073/1663, which we do not know the name of the mufti except for the information that it belonged to the author of *Şerhu Tarîkâtü'l-Muhammediyye*, was also probably written in Anatolia. Interestingly, although the chapter of cihâd does exist in *Fetâvâ-yı Sivasiyye*'s table of contents, it has no page number just like all others do.[41] Thus, the title is not found in the text, in other words, *Kitâbu'l-Cihâd* was left empty. Likewise, when we depart from Anatolia to Hijaz, we see that *Fetâvâ* of Abdurrahman b. İsa b. Mürşid el-Ömeri's (d. 1037/1628), the mufti of Makkah from 1611 to his death, has not even a title of *Kitâbu's-Siyer/Cihâd* in the contents, neither in the main text.[42]

Overall, there are not any *Kitâbu's-Siyer* fatwas in the collection found in Hijaz and one of Anatolian collection as well. Although another collection from Anatolia includes 80 of them, there is almost no mention regarding an event of transborder gaza activities. As we turn back to Rumelia, there are indeed similar themes and fatwas in the chapters of *siyer/cihâd* of Üskübi's and Süleyman Efendi's compilations, nevertheless, neither draw a dominating picture of frontier incidents as we see in that of Akkirmani's. This result is not surprising, as Hijaz and Anatolia were not placed in frontier. More importantly, it is valuable to see *Fetâvâ-yı Akkirmani*'s distinct frontier characteristic.

6.3 Distinction of Abode of Islam and Abode of War in *Fetâvâ-yı Akkirmani*

Akkirmani's perception of law was formed by the main scheme and concepts of Islamic jurisprudence, as it was the main back bone of the other Ottoman scholars' legal reasoning as well. In the frontier, it is inevitable that the concepts of Abode of Islam (*Dâru'l-İslâm*) and Abode of War (*Dâru'l-Harb*) would come to the agenda for its geographical distinction. Abode of Islam meant the lands under the control of Muslims; whereas Abode of War was the rest, controlled by non-Muslims. This dis-

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[40] Mehmed b. Bistâm el-Hoşâbî el-Hüseynî el-Vânî, *Fetâvâ-yı Bistâmî*, 13a-28b, İstanbul Üniversitesi Nadir Eserler Kütüphanesi, Türkçe Yazmalar, 989.

[41] *Fetâvâ-yı Sivasiyye*, Ia, Süleymaniye Kütüphanesi, Kılıç Ali Paşa, 487.

[42] Abdurrahman b. İsa el-Mürşidi el-Ömeri, *Fetâvâ*, 1b-186b, Süleymaniye Kütüphanesi, İzmirli İsmail Hakkı, 827.

tinction provided the setting for Akkirmani to develop his ideas about the relations of Muslims with non-Muslims.

Abode of Islam was the homeland of Muslims, non-Muslim subjects (*zimmî*s) and temporarily approved non-Muslims (*müstemen*s). The Ottomans made a hypothetical contract (*akd-i zimmet* or *ahd-i zimmet*) with *zimmî*s. As a result of this contract, *zimmî*s were considered from the subjects of Abode of Islam (*ehl-i Dâru'l-İslâm*) with guarantee of life and property safety in exchange for loyalty and paying poll tax (*cizye*). *Zimmî*s were constant subjects unless they were considered to violate the contract. Müstemens, on the other hand, were temporary non-Muslim visitors, usually ambassadors and merchants, who were allowed to enter Abode of Islam with a pact (*emân* or *ahidnâme*). Unlike *zimmî*s, *müstemen*s were not regarded as subjects. They were still alien non-Muslims (*harbî*) whose life and property were protected during the pact. *Harbî*s, on the other hand, were all non-Muslims dwelling in Abode of War. Unless there was peace treaty, Muslims were assumed to be at war with *harbî*s. Therefore, as opposed to *zimmî*s and *müstemen*s, violating *harbî*s' life and properties considered permissible (*helâl*). Any non-Muslim entering Abode of Islam without holding a pact or a sign indicating that he was an ambassador or merchant was treated as *harbî*. Hence, a Muslim could not enslave another Muslim, *zimmî* or müstemen; whereas it was permissible to enslave *harbî*s due to supposed state of war.[43]

This distinction among different non-Muslims was "an abstract notion being strongly associated with sovereignty, rulers and laws."[44] Its natural connection with space was also undeniable. This distinction allows us to define Abode of War as "slaving zone," while Abode of Islam and tributary polities such as Crimean Khanate, Moldavia and Wallachia principalities as "no-slaving zone."

All names of places found in this map of Ottoman north frontier were mentioned in *Kitâbu's-Siyer* of *Fetâvâ-yı Akkirmani*. This shows how Akkirmani's fatwas were closely linked with the geographical setting of the frontier. Inquirers (*müsteftî*s) frequently referred to the name of the places in their questions. Also, abundant references to various places demonstrate that the fatwas in *Kitâbu's-Siyer* were mostly about spatial transitivity and therefore related to the frontier raid activities.

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[43]Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 42-45; M. Macit Kenanoğlu, "Zimmî," in *TDV İslam Ansiklopedisi*; Bruce Masters, "dar al-harb," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009); Bruce Masters, "dar al-Islam," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009); Coşkun Çakır, "merchants," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009).

[44]Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 46.

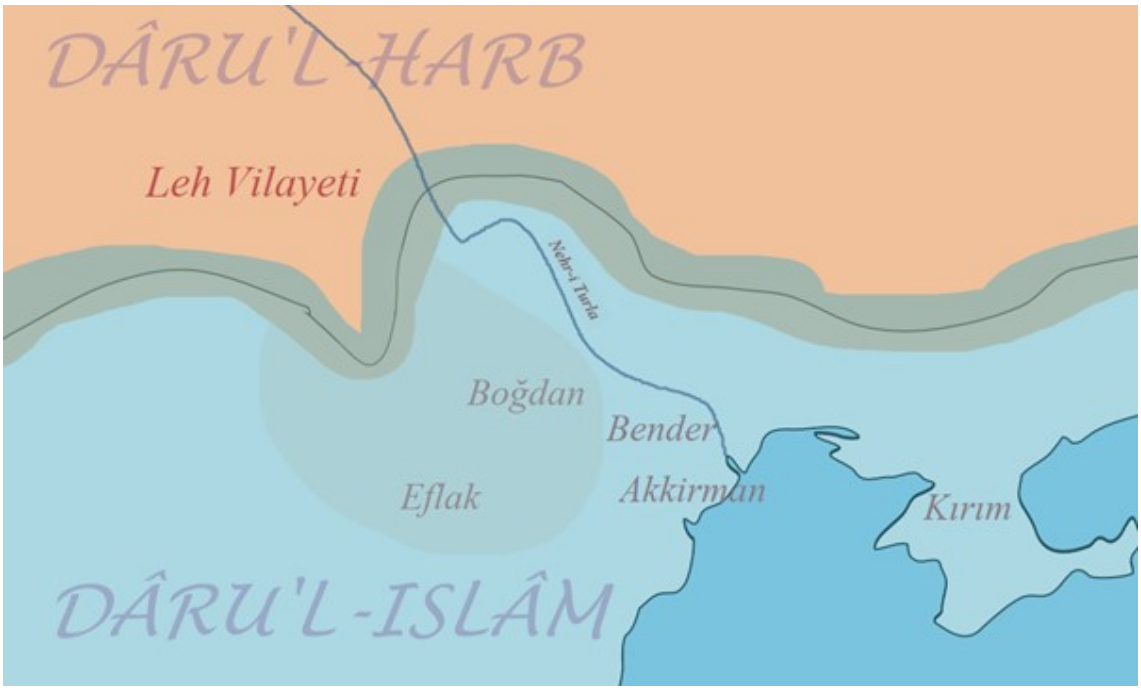

Figure 6.1 Map Showing the Names of the Places Mentioned in *Kitâbu's-Siyer* of *Fetâvâ-yı Akkirmani*, Considering the Distinction Between *Dâru'l-İslâm* and *Dâru'l-Harb*

The map allows us to see the spatial consciousness of the mufti in which Ali Akkirmani perceived his surroundings in accordance with the distinction of Abode of Islam and Abode of War. He considered the location of the place in the question, and issued the fatwa in accordance with the distinction. He regarded Akkirman, Bender and Kırım (Crimea) within Abode of Islam; *Leh Vilâyeti* (Polish lands) within Abode of War. Eflak (Wallachia) and Boğdan's (Moldavia) political instability made its status ambiguous and variable from time to time. This distinction was in force particularly when he was posed a question regarding slavery, captivity, raid or other issues related to border-transitivity.

6.4 Major Topics in Kitâbu's-Siyer of Fetâvâ-yı Akkirmani

In this section, I will talk about most frequent themes in *Kitâbu's-Siyer* of *Fetâvâ-yı Akkirmani* such as fifth (*pençîk*), change of ownership depending on the borders, the breakdown of the contract and status of the tributary. As repeatedly mentioned, growing Ottoman bureaucracy was ambitious to establish control over provinces as much as possible with its growing staff of scholar-bureaucrats at the turn of the sixteenth century. Assigning one of them with local authority to the muftiship and professorship of a frontier province, the Sublime Porte must have sought at first

place to carry the imperial law in the frontier. At such a city that enslavement and looting were considered part of daily life, Akkirmani's familiarity and local recognition might have led the center to expect from him more than his predecessors in the office. In return, when he became the mufti of Akkirman, Akkirmani knew through which ways he was to construct his authority. He was to use juristic tools and his familiarity with the region effectively.

6.4.1 Fifth (*Pençîk*) Tax

Humus or pençîk was one of the recurring themes in *Kitâbu's-Siyer* of *Fetâvâ-yı Akkirmani*, as it was common in all *Kitâbu's-Siyer* chapters of the jurisprudential works. The word is Persian and means one-fifth. It mainly corresponds to humus tax in Islamic jurisprudence and is known as *pençîk* in the Ottoman realm, which is the share of the ruler from the booties captured in Abode of War.[45] It was narrated that *pençîk* was imposed in 764/1363 by Murad I as 25 aspers for per captive.[46] In 916/1510, two separate *Kânunnâme-i Pençîk*s instituted the essential rules for this practice.[47] Since the mid-fourteenth century, if captives were useful and taken for janissary army, they were called *pençîk oğlanı*; if they were not, *pençîk resmi* (*pençîk* tax) would be collected as cash.[48] Accordingly, for example, in a *kânunnâme* dated 926/1520, it was announced that 20 aspers would be collected instead of *pençîk*.[49]

Due to its direct evidence from the Quran, it surely has sacred roots and must have been considered a religious obligation.[50] However, *pençîk* was closely associated with state authority as well, as endeavor for its regulations demonstrates, through *kânunnâme*s from Istanbul to the frontier areas particularly until the mid-sixteenth. Akkirmani issued several fatwas on *pençîk*:

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[45] Dede Cöngi, *Risâle fî Emvâli Beytü'l-Mâl ve Aksâmihî ve Ahkâmihî ve Masârifihî*, 6a, Süleymaniye Kütüphanesi, Esad Efendi, 3560.

[46] Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri I. Cilt* (İstanbul: Fey Vakfı Yayınları, 1992), 258.

[47] *Kânunnâme-i Pençîk*, Revan 1935, 9a-9b, Topkapı Sarayı Müzesi Kütüphanesi; *Sûret-i Kânunnâme-i Pençîk*, Atıf Efendi 1734, 36a-37a, Atıf Efendi Kütüphanesi.

[48] Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri II. Cilt* (İstanbul: Fey Vakfı Yayınları, 1992), 128.

[49] "Pençîk ref olunup yirmişer akçe alınmak fermân olundu." Ahmet Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri III. Cilt* (İstanbul: Fey Vakfı Yayınları, 1992), 476.

[50] "Know that whatever spoils you take, one-fifth is for Allah and the Messenger, his close relatives, orphans, the poor, and [needy] travellers, if you [truly] believe in Allah and what We revealed to Our servant on that decisive day when the two armies met [at Badr]. And Allah is Most Capable of everything." The Quran 8:41.

> Question: If the soldiers of Islam sell the captives who they imprisoned forcefully in Abode of War and brought from there, without paying *pençîk*, is their money, service and if [the captive] is a concubine, sexual intercourse with her permissible to the buyer?
>
> Answer: If the Muslim soldiers sell those captives without paying *pençîk*, only four of the five shares would be valid. They are not completely the property of the seller nor the buyer. *Pençîk* is the right of the current ruler (*imâm-ı zamân*), may Allah the Almighty strengthen and eternalize him. The proprietorship over it is common if [*pençîk*] is not paid. It would not be permissible to use them claiming that all of them are my property including his/her service and value. And if [the captive] is a concubine, sexual intercourse with her is by no means permissible. [51]

Akkirmani's attitude towards *pençîk* is uncompromising. He explicitly lays stress on the right of the current ruler and states that to exploit the captive in any way would not be legal without paying it. Recalling the Porte's endeavor to regulate and ensure *pençîk* is collected, Akkirmani's rigid approach towards *pençîk* must have been related to his care for supervising implementation and embracement of the Porte's legislations. After Muslims defeat infidels in Abode of War, ruler's (*imâm*) distribution of booties among soldiers (*taksîm*) becomes an important concern. Particularly when and where ruler should distribute was a controversial issue among founding imams of madhhabs.[52] Accordingly, one fifth of the booties was to be taken for the ruler/state treasury, namely *humus* or *pençîk*, the rest was to be distributed among ghazis by the ruler, considering their contribution during the war, whether they were horsemen, infantries, logistic units etc. Distribution (*taksîm* or *kısmet*) indeed mattered, for it was a must for the sale of the booty to be legal.[53] Molla Hüsrev and İbrahim Halebi, from the fifteenth and sixteenth century respectively, also gave place to the issue of distribution of the booty in their works of *Dürerü'l-Hükkâm* and *Mültekâ'l-Ebhur*. The former devoted a section titled "Section of the Captive and Its Distribution ( )" under the chapter of Kitâbu'l-Cihâd as the latter did the same with "*Section of the Captives and Their Distribution* ( )" under chapter of *Kitâbu's-Siyer ve'l-Cihâd*. That shows that *taksîmu'l-ganâim* (distribution of the booties) occupied significant place in the Islamic jurisprudential tradition. However, interestingly, there is no fatwa about this issue in Akkirmani's *Kitâbu's-Siyer*.

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[51] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64a.

[52] Khusrau, *Durar al Hukkam*, 1, 452-57; el-Halebi, *et-Ta'likü'l-müyesser ala Mülteka'l-Ebhur*, 360-64.

[53] " el-Halebi, *et-Ta'likü'l-Müyesser ala Mülteka'l-Ebhur*, 361.

The possible reason for this, lays in the fatwas of Ebussuud Efendi. We learn from his several fatwas that practice of distribution changed in the sixteenth century. Ebussuud answers the question that "Is it abominable according to law to use concubines without marriage who are suspected to be distributed among Muslim ghazis in a legal way" with declaring that "Today (*Fî zamâninâ*) there is no legal distribution (*kısmet-i şeriyye*). As in 948/1544 *tenfîl-i küllî* (lit. general permission/benefit) occurred. [Therefore] There is no ground for suspicion if *pençîk* is paid."[54] Ebussuud's another fatwa provides further details:

> Question: Does Amr, who was captured by Zeyd in the Abode of War, become Zeyd's slave without the booties were distributed among the captors?
>
> Answer: Yes, he becomes if *humus* [of the slave] is paid. In the year of 948, this issue was addressed to the sultan (*pâye-i serîr-i alâ*) and said that "Prisoners captured by ghazis do not enter their private property (*mülk-i hâslarına dâhil olup*) and their legal usage (*tasarrufât-ı şeriyyeleri*) would not be considered permissible before distribution. [However,] it is hard to distribute captives, people are not accustomed [to this practice]. At least general permission (*tenfîl-i küllî*) would be declared so that each ghazi paying humus for his captive could own it" Therefore general permission was granted and it was decreed that "Each captive shall belong to who captured, he shall pay *humus* and no one intervenes him" Since that time, no suspicion remains if *humus* is paid, all usage is permitted.[55]

It seems that it was difficult to deal with the distribution of the booty (*kısmet-i şeriyye/taksîmu'l-ganâim*) in the frontier. Thus arose the request from the warriors there and the Porte granted general permission (*tenfîl-i küllî*). *Tenfîl* meant an additional benefit or share, to encourage soldiers through more than their ordinary cut from the booty, preferably before the war.[56] Bayezid II declared in an edict dated 889/1484, for instance, that anybody participating in the war in that year would not need to pay *pençîk*.[57] Moreover, in the imperial order that Ebussuud pointed out,

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[54]Efendi, *Ma'ruzat*, 84.

[55]Efendi, Ma'ruzat, 85.

[56]Ahmet Yaman, "Tenfil," in *TDV İslam Ansiklopedisi*. https://islamansiklopedisi.org.tr/tenfil.

[57]Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri II. Cilt*, 135.

even though the distribution was removed, *humus/pençîk* kept its significance. The chief mufti, thereby, announced that the use of slaves would be legal on condition that its fifth is paid. Bearing these in mind, we shall look at Akkirmani's use of these regulations in his other fatwas.

> Question: If Amr takes Zeyd's captive forcefully whose *pençîk* was not paid, is Zeyd allowed to not pay *pençîk* to the steward of state treasury (*beytü'l-mâl emînine*) asserting that "My captive is usurped"?
>
> Answer: No, he is not.[58]
>
> Question: Is it permissible to use captives whose *pençîk*s were not paid and are contracts of those who bought them valid?
>
> Answer: If they bought from *emîr* (commander) who is head of the soldiers (*serasker*) authorized to collect *pençîk*, [captives] become the property of the buyer. It is permissible to use them and their purchase is valid. If he did not pay *pençîk* determined after distribution, neither he nor the one who bought from him are not permitted to use and none of their contracts is valid. Four of five shares are permitted and valid; one share, which is *pençîk*, belongs to the commander. Even, if [the captive] is a concubine (*câriye*), it is not permissible (*helâl*) to engage a sexual intercourse with her unless her *pençîk* is disbursed.[59]
>
> Question: Is Zeyd allowed to not to pay *pençîk* of a captive, whom he bought before his *pençîk* was paid, asserting that I bought it plucked/damaged (*yoluklu*)?
>
> Answer: No, he is not. There is no correlation between paying *pençîk* and being plucked. And if they get an amount of money from the captive who they call *yoluk* and afterwards release him to Abode of War, this kind of release is forbidden and it is completely not permitted with consensus.[60]

One can easily observe in these fatwas Akkirmani's strict manner towards to *pençîk*

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[58] "Mesele: Zeyd'in pençiki edâ olunmayan bir esîrini yedinden Amr gasben alıcak merkûm Zeyd esîr-i mezbûr gasb olundu deyü pençiki beytü'l-mâl emînine vermemeğe kâdir olur mu? El-Cevâb: Olmaz." Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 67a.

[59] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 67a-67b.

[60] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 72a.

again. His mere focus on three fatwas was whether *pençîk* was fulfilled or not: Neither being usurped nor plucked/damaged were not acceptable excuses to avoid the tax. However, interestingly, these fatwas either lack or did not attach significance to the distribution of the booty (*kısmet-i şeriyye*). In the second one, term of distribution was mentioned: "If he did not pay *pençîk* determined after distribution (*Eğer taksîmde hissesine düşen pençîki vermediyse*)" Though, it is still in relation to *pençîk*, and there is no emphasis about distribution. And only in another fatwa, the term appeared as "after the distribution (*bade'l-kısme*)."

> Answer: ... If Zeyd finds the aforementioned slave at the hands of Amr, he takes him with the price if he wants to get him back.[61]

However, again, the distribution did not seem as the pinpoint a captive to be legal. It rather seems that Akkirmani used it as a time concept to indicate that the slave was brought back to Abode of Islam. Or it might be the case that unlike the others, this group of warriors might have preferred to distribute the booty as it was discussed in the Islamic jurisprudence books. Yet the crucial point here is that Ali Akkirmani did not impose it.

Recalling Evliya Çelebi's account, ghazis were to raid monthly. It is unlikely that they could go individually. As a matter of fact, an average small-scale raid in the steppe involved several hundred horsemen and generally brought in a dozen of captives.[62] In addition to them, a considerable amount of booty also should be taken in account. Normally, with these numbers of ghazis and their captives and booties, the distribution (*kısmet-i şeriyye*) is expected to become in the agenda.

Nevertheless, it seems that Akkirmani did not need to evoke *kısmet-i şeriyye* up, as the questioner did not pose a question about it. It is therefore very likely that though distribution of the booties seemed important to become booty legally useful in the contemporary jurisprudential texts, Akkirmani regarded the imperial order of 948/1541 granting *tenfîl-i küllî* and Ebussuud's statement that "Today (*Fî zamân-inâ*) there is no legal distribution (*kısmet-i şeriyye*)." Otherwise, Akkirmani would have stipulated *kısmet-i şeriyye* in addition to *pençîk* to become sale of booty legal.

As a scholar-bureaucrat in the office of muftiship, Akkirmani acted in accordance with the imperial order. By following it, Akkirmani considered the reality of the frontier where raids took place frequently and most probably turned into a business

[61] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 66a.

[62] Khodarkovsky, *Russia's Steppe Frontier: the Making of a Colonial Empire, 1500-1800*, 19.

sector. Therefore, we can speculate that the mufti contributed to dynamism of the raid traffic and flow of the slaves.

6.4.2 Change of Ownership Depending on the Borders

In the context of the frontier, raids took place reciprocally; a group of Muslim subjects used to visit Polish lands unexpectedly and turn back to the Ottoman territory with spoils: horses, slaves and other valuable articles. The opposite was also the case, a *harbî* party could attack an Ottoman village and take the assets of Muslims and non-Muslims if not themselves. *Harbî*s could sell these spoils either before they abandoned Abode of Islam to Muslims, or they could take them to their lands, Abode of War and sell there. In these cases, possession of assets that changed hands brought about complex problems. The mufti was to consider the distinction of Abodes of Islam and War to evaluate the change of the possession.

Hanafis took the borderline between Abode of Islam and Abode of War as the pinpoint in passing slave or booties into one's possession. In other words, even if one captures something or somebody in Abode of War, he does not become the owner until he carries to the Abode of Islam. Akkirmani adapted this principle into many relevant cases. As the initial case, we shall look at the story of two fellows who crossed the frontier and took a captive together.

> Question: Zeyd and Amr seized a captive from Abode of War, after they brought the captive to Abode of Islam, they sold him/her to Halid with a certain amount (*semen-i muayyen*). Before they obtained the money, Zeyd was dead and Amr took the whole money in the location of dealing. Afterwards, Amr was dead too. Thereafter, Bekir, aforementioned Zeyd's brother from identical parents, accused Halid to have given unnecessarily the share of his deceased brother to Amr. Can Bekir claim Zeyd's share and take it?
>
> Answer: Once Zeyd arrived in Abode of Islam and died there, his share becomes inheritable to his beneficiaries. Also, in this partnership (*şirket*), partners were aliens to each other's share and cannot operate it. Both Halid and Amr became exceeder and usurper (*müteaddî ve gâsıb*), for the former handed Zeyd's share over to Amr and the latter took it. Bekir was free to take his brother's share either from Halid or Amr's inheritance.

In this fatwa, Akkirmani constructed his opinion on transfer of possession considering the arrival in Abode of Islam as the critical element. Even though Amr died before he took the gain from the captive's sale, thanks to that he could turn back to Abode of Islam, his share from the captive's value realized. There are other similar incidents in *Kitâbu's-Siyer* of *Fetâvâ-yı Akkirmani*, we can go into more complex ones.

> Question: Zeyd claimed the right for a horse possessed by Amr saying that I had lost it somewhere when I went to campaign and brought evidence. If Amr asserts that I took this horse from Abode of War by my sword Amr brings evidence, can Zeyd take back the horse from Amr?
>
> Answer: He can take it by paying its value, not for free. The horse is removed from Zeyd's property with Amr's evidence.[63]

Another relevant fatwa was probable issued during the time when Moldavia was out of the Ottoman realm, possibly the fatwa was issued before 1601:

> Question: When province of Moldavia was unstable (*Boğdan vilâyetinde fetret olup*), *harbî*s from one side and Muslim soldiers coming from another confronted and fought [there], and *harbî*s looted horses and dresses of the Muslim soldiers and arrived in their lands, which is Abode of War [together with the booties]. A couple of years later, after Zeyd bought one of those horses in Moldavia and turned back to his residence, which is Abode of Islam if someone would be claimer for the horse and provide evidence, can he take it?
>
> Answer: No. The horse became out of Bekir's possession once *ehl-i harb*'s incursion and taking it back to their lands (*dârlarına idhâl ile*).[64]

In these two examples, the assets of Muslims were taken from Abode of Islam and brought to Abode of War. Due to the change in the borders, Akkirmani issued that the property rights transferred to harbîs. There are also numerous opposite cases.

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[63] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64a. Also for another quite similar fatwa, Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 71b.

[64] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64b.

> Question: A *harbî* party crossed the borders and grabbed the assets of Ottoman subjects. Before they did not turn back to Abode of War, a group of Muslims encountered with these *harbî*s, fought them and took back what they had seized. A slave belonged to Zeyd was also seized from those lands. Afterwards, if Zeyd finds his slave in Amr's possession within Abode of Islam proves that the slave was captured from his possession, can he take it back for free (*müft ü meccânen*)?
>
> Answer: Yes.[65]

In this one, the slave's property rights did not transfer to harbîs since they did not go back to their homelands, Abode of War. When Muslims fought with enemies and took the booty back, the slave still remained as the property of his first owner, because it had not change at first place. Thus, his brief answer Akkirmani issues, he can. The first owner of the slave could take him for free, because he was his own property.

Another very similar incident took place again inside Abode of Islam. Muslim soldiers confronted with *harbî* raiders when the latter were turning back to Abode of War with Muslim captives and their captured assets. Before the latter arrived in Abode of War, parties skirmished and Muslims defeated the intruders disposssessing of the assets. Nonetheless, ghazis' intention was not that different from that of intruders. They claimed that "Those assets of Muslims that we saved had become *ehl-i harb*'s properties before, and we took them back from the infidels fighting and by sword." The question was that did those assets passed into possession of the them with this claim and whether they were allowed to sell or use in other ways.

> Answer: No. Assets of Muslims that people of Abode of War seized with predominance do not become their properties unless they took them to their lands (*kable'l-ihrâz bi-dârihim*). Muslim owners continue to possess them. If Muslim soldiers fight against aforementioned people of Abode of War, defeat them and obtain the assets, the owner Muslims take their assets back for free where they find.[66]

Akkirmani interpreted the law with same reasoning again. Because they did not reach Abode of War, the assets and captives did not belong to them. In these

[65] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64a.

[66] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 68b-69a.

examples, it is also notable that when Muslim ghazis rescued the Muslim captives and their assets, they claimed the property right over them. This demonstrates that in the frontier, ghazis saw these conflicts and raids as a business, regardless of their religion, they sought to seize them whoever and wherever they could. Nevertheless, the mufti of Akkirman, utilizing the distinction of Abode of Islam and War and the principle of the change in possession based on it, issued that these claims were invalid.

We learn from another fatwa that the harbî intruders would not immediately turn back to Abode of War. They opened a market in Abode of Islam to sell Muslim captives to and assets to Muslims that they seized in Abode of Islam and from Muslims:

> Question: A party of harbî infidels invaded a town in Abode of Islam and captured many Muslims, including Muslim Zeyd, together with his assets. Before they arrived in Abode of War, the looter party stayed in a Muslim town (*belde-i İslâmiyye*) with its soldiers within Abode of Islam to sell out Muslim captives. They ransomed Zeyd there, afterwards a market was set up to sell the clothes that they looted from the people of Islam to new-comer Muslims for shopping (*alışveriş olup ehl-i İslâm'dan aldıkları esbâbı varan müslümânlara satdıklarında*). Among all his assets, Zeyd's belt (*hamâil*) was sold to someone. Afterwards they went to Abode of War. Then, if Zeyd finds his belt on that place and that person's possession, can he retrieve his belt paying for the identical as the other Muslim did to the infidel?
>
> Answer: Zeyd takes it back for free, without paying any price.[67]

The Muslim abstracted as Zeyd was probably ransomed by his associates. In the market that the raiders opened, one of Muslims bought Zeyd's shoulder belt (*hamâil*). Thereafter, it seems that the Muslim with the belt went to Abode of War. After a while, for some reason, either intentionally to take his belt back or for another purpose, Zeyd also stepped in Abode of War and found his belt at the hand of that Muslim. The situation got relatively more complicated.

The belt passed firstly into a *harbî*'s hand, then a Muslim bought it but both occurred in Abode of Islam. Then, it was moved to Abode of War. However, even if Zeyd was ready to pay for his shoulder belt as long as he took it back, in Akkirmani's

[67] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 68a.

opinion the belt was never to pass to the *harbî*'s posession nor to that of Muslim buyer. He even said that Zeyd takes it back for free, without paying any price (*Bir akçe vermeyip bi-lâ-şeyin alır*). Because it was changed hands twice but both were in Abode of Islam. It seems that Akkirmani did not regard its being carried away by the Muslim to Abode of War later as a change in possession for it had been in the Muslim's hand while doing so.

Last but not least, an already mentioned fatwa related to one of Hind's captives, who fled to the other side of Dniester River in the line with Bender judgeship (*Bender kadılığının Nehr-i Turla'nın öte yakasında*) competently draws the conditions to be a land within Abode of Islam or War.

> Question: One of Hind's captives fled to the other side of Dniester River in the line with Bender judgeship. Muslims of Bender had quarters there and they seized the fugitive where they had under their control. When Hind requested return of her captive, are they not to give to Hind saying that they grabbed the captive within Abode of War?

Being well-aware of how the ownership transferred depending on the borders, the Muslims thereby claimed that they grabbed the captive within Abode of War. Nonetheless, Akkirmani was not to buy it. He rejected their assertion by clarifying how an area considered to be Abode of War:

> Answer: No. Abode of War takes place with three conditions: First, laws of polytheism and infidelity (*ahkâm-ı şirk ve küfr*) should be carried out there. Secondly, it should be bordered on Abode of War. Thirdly, there should not be a Muslim or *zimmî* left living securely with a former pact.[68]

The northern frontier was distant from the center, and thereby had a great potential to be distant from the law. The suburbs of Akkirman and near cities, towns and villages hosted outlaws. Raid activities were a way of livelihood for them. Akkirmani, as a local of the city, was aware of this reality, yet he was also the representative of the imperial law. He used the principles of the law pretty effectively when he was to deal with frontier issues. The change of property rights based on the distinction of Abode of Islam and War, he showed his spatial consciousness and interpreted the

[68] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64a-64b.

law accordingly.

6.4.3 The Breakdown of the Contract of Zimmet (*Nakz-i Akd-i Zimmet*)

The relations between non-Muslim subjects of the Ottoman realm were shaped on the ground of a hypothetical contract, *akd-i zimmet* or *ahd-i zimmet*, that ensured life and property safety in exchange for loyalty and paying poll tax. It is possible to see reflections of this contract's consequences in the frontier context.

In the relevant fatwas of Akkirmani's *Kitâbu's-Siyer*, the mufti issued basically that the contract would be infringed only if *zimmî*s move to Abode of War and they attack together with the people of Abode of War (*ehl-i Dâri'l-Harb*) against the Abode of Islam. If *zimmî*s fled to not pay poll tax or condemned Muslims or the Prophet, for instance, they would not have been counted as violating the contract. In the following fatwa, for instance, Akkirmani says that poll tax was considered debt (*cizye deyndir*) and therefore not giving it does not contravene the contract unless they join the abode of war (*dâr-ı harbe lâhik olmayacak...*), though the tax is taken where they are found:

> Question: Zeyd demands poll-taxes with sultanic order (*emr-i pâdişâhî*) from *zimmî*s living in a village. What do they deserve if do not obey the sultanic order not delivering their poll-taxes and fleeing from their villages?
>
> Answer: Poll-tax is debt, they would not have been considered as violating the contract by fleeing and not paying it (*kaçıp vermemekle nakz-ı ahd etmiş olmazlar*). If they flee and settle in Abode of War, the contract of *zimmet* is cancelled. If they are enslaved, they come into possession. If they do not settle in Abode of War and are found [within Abode of Islam], their poll-taxes are taken. If they could not be found and that year passes, the poll-tax interpenetrates. The previous year's poll-tax becomes no longer valid and is not taken, the current year's is taken in İmâm-ı Azâm's opinion. Whereas in İmâmeyn's [Ebu Yusuf and İmâm Muhammed el-Şeybani] opinion, the previous year's poll-taxes continue to be valid and taken.[69]

[69] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 66a.

Being a former *zimmî* provided no advantage; they could still be enslaved, even if they were not treated as apostate (*mürted*). It seems that this was not unusual to happen there for Akkirman located in the frontier, where "abodes" came quite close to each other. In the following fatwa, we see:

> Question: If a slave, man or woman, said that I was *zimmî* or *zimmiyye* from *reâyâ* of Moldavia (Boğdan) before and man said I used to pay poll-tax (*cizye*) and woman said my husband used to pay, afterwards I left Moldavia and stepped in Polish lands (*Leh vilâyeti*) which was *Dâru'l-Harb* and settled there, and I was taken captive from where I lived in, is he/she released for he/she was *zimmî* or *zimmiyye* before?
>
> Answer: He or she is enslaved, not released. If it is written and certain (*Muharrer ve mukarrer olıcak*), settling in *Dâru'l-Harb* is breakdown of the contract (*nakz-i ahiddir*).

Here, we see Akkirmani did not give credit to be a former *zimmî*. He employed his discursive tool of legal maxim (*küllî kâide*) to enforce his juristic authority that "Joining Abode of War is breakdown of the contract (*Dâru'l-harbe lühûk nakz-ı ahddir*)."[70] In another fatwa, Akkirmani declared the same opinion for a former *zimmî* who then settled in Abode of War and was captured when he was fighting against Muslims. He tried to free himself from being enslaved by asserting that he had been previously a *zimmî* of Moldavia:

> Question: A *zimmî* became messenger of Abode of War. He was within Abode of War initially, then he came with the people of War and fought against people of Islam. During the battle, one of Muslim ghazis defeated him with his sword and brought him to Abode of Islam taking him captive. If he proves his claim that he was a *zimmî* in Abode of Islam earlier, is he released from the captivity and property of Zeyd?

Akkirmani again predicated on the same principle and concluded:

> Answer: No, he cannot. If it is proved (*muharrer ve mukarrer olıcak*), it means that the *zimmî* cancelled the act and it became terminated. If

[70] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 65b.

he is taken prisoner, he is enslaved, he is not treated as apostate.[71]

The last instance regarding the breakdown of zimmet contract is particularly fruitful to show the frontier atmosphere:

> Question: The People of Islam were unremittedly launching campaigns for several years against infidels who always defeated and while another year also ghazis of the people of Islam gathered and were going to *gazâ*, if a *zimmî* frankly insults Islam and Muslims by saying that this year we have the opportunity to defeat Muslims, does he violate the contract and deserves to be executed?
>
> Answer: No, he does not. To insult Islam, which is accidental blasphemy (*küfr-i ârızî*), is not more severe than essential blasphemy (*küfr-i mukârin-i aslî*). Thus, since his actual essential blasphemy already does not contravene his *zimmet* and require to be executed, he does not need to be executed because of his accidental blasphemy. The issue is written on the sections of *cihâd* of texts and commentaries. However, he is still to be penalized with usual precautionary punishment (*tazîr*), for he insulted and harmed Muslims.[72]

Here, this offense by a *zimmî* indicates that in some places and sometimes at least, continuous raids in Akkirman frontier could raise the tension between *zimmî* and Muslim subjects. In this context, Akkirmani lays emphasis on the fact that a *zimmî* is already an infidel and the contract of *zimmet* is done being aware of it. In other words, his essential infidelity does not oppose to this contract. Hence, the accidental infidelity, which is to insult Islam in this context, does not prevent it. This time, in addition to his added references, he also recalls texts (*mutûn*) and commentaries (*şurûh*) within the main answer to constitute his juristic authority. Akkirmani did not issue for the *zimmî*'s execution, though, his act still deserves punishment equivalent to Muslims.

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[71] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 69b.

[72] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 70a-70b.

6.4.4 Ambiguous Status of the Tributary

The borders of an early modern empire were not always exact and clear cut; the level of uncertainty about the borders were even higher in places that mutual harassments constantly took place in the form of raids. In addition, being a tributary principality to another subcategory to the classification of Abode of Islam and Abode of War.

Before 1538, principalities of Wallachia and Moldavia had been accepted as tribute-payers (*harâc-güzâr*s), paying annual tributes for roughly a century to the Ottomans—although there were some lapses in paying tributes.[73] Most probably due to this occasional lack of loyalty to the Porte, these principalities were principally considered within Abode of War.

With the campaign of Moldavia in 1538, in which Sultan Süleyman I annexed Moldavia, Wallachia and Transylvania, voivodes were attached to the Sultan with closer bonds. After he finalized the campaign in October 1538, Sultan Süleyman mentioned Stefan Lacusta as "voivode of the vilayet of Moldavia" and bestowed him symbolic gifts of charter (*berât*), banner (*alem*), caftan (*hilat*) and tall cap (*üsküf*) that ordinarily given to Ottoman beys. From this date onwards, expressions in many documents lead us to think that this region regarded within the Well-Protected Lands (*Memâlik-i Mahrûse*) and its inhabitants were considered as *zimmî*s. Viorel Panaite states that despite earlier existence of the concepts of tribute payer (*harâc-güzâr*) and protection (*himâyet*) in the previous sultans' reigns, "it was only under Süleyman Kanuni that the Ottoman legal-political status of the north Danubian tributaries crystallized."[74] Depicting Sultan Süleyman's Wallachian and Moldavian voivodes as his "slaves and tribute-payers (*kulum ve harâc-güzârımdır*)" and assigning Sigismund Zapolya as an ordinary governor (*Erdel vilâyetin sancak tarîkle inâyet edip*)[75] also show tendency towards the integration of these principalities into the Ottoman administration. Similarly, different orders from 1572, 1581 and 1618 mentions Moldavia, Wallachia and Transylvania as integrated parts of *Memâlik-i Mahrûse*.[76]

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[73] According to Sándor Papp, Petru I Muşat (ca. 1374-92) was the first voivode sending tribute to the Ottoman Empire in 1377 during Sultan Murad I's reign. In 1455, Petru Aron the voivode recognized the Ottoman suzerainty. In 1456, Sultan Mehmed II granted merchants of Akkirman right of trade in Istanbul, Edirne and Bursa without constraints. Twenty years later, because the voivode developed close relations with the Hungary king challenging the Ottoman ascendancy, Mehmed II launched a campaign and then declared "the only extant *ahdnâme* given to the Romanian voivodes by an Ottoman ruler." Sándor Papp, "Moldavia," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Masters (New York: Facts on File, 2009).

[74] "It was Sultan Suleyman I," Viorel Panaite reports, "the first sultan to claim the outright ownership over the principalities and consider their inhabitants his subjects." Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 104-22.

[75] Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 269.

[76] Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of*

Imperial commands sent to the qadis and governors of the nearby towns and villages prove this. Imperial commands dated September 1589 and March 1590 called Moldavian inhabitants as "subjects (*reâyâ*)."[77]

Nevertheless, shortly after Grand Vizier Koca Sinan Pasha declared war against the Habsburgs, Moldavian, Wallachian and Transylvanian voivodes joined the Holy League in 1594. They then attacked nearby villages, towns and castles, including Akkirman. Due to this rebellion, the Ottoman center decided to end their vassal status and directly appoint governors from the center, as the other provinces of the empire. From this date onwards until 1601 when these principalities were taken under control, eight years seem to have passed in instability and conflicts. After 1601, their status was restored to its previous tributary version.[78] In this vein, their inhabitants came to be regarded as subjects of the empire again. Imperial commands cited above in September 1604, February and March 1605, referred the inhabitants of Moldavia and Wallachia as *reâyâ* (subjects).[79] An imperial command in January 1607 sent to the qadi and governor of Akkirman also addressed the subjects of Moldavia as tributary-subjects (*harâc-güzâr reâyâ*).[80]

In 1608, Sultan Ahmed I's order to Şahin Giray described Moldavian subjects the same as other subjects of *Memâlik-i Mahrûse*, later in 1672 Mehmed IV, put the emphasis on Wallachian subjects' not being *harbî*, but being at the same status as the rest of the population of *Memâlik-i Mahrûse*. Accordingly, in 1574, Selim II charged Crimean Khans to prevent Tatars from enslaving obedient Moldavian subjects. In the same vein, upon the Moldavian voivode's complaint, an order was sent from the Porte in 1632 to change the Tatar route in order to avoid oppression and enslavement against Moldavian subjects.[81]

A charter (*berât*) granted to Alexandru Iliash in 1620 demonstrates that this attitude continued along the century. After a series of compliments which was similar to those for any Ottoman beg, the charter depicted the voivode as "Exemplar of the Religion of Christianity, Chief of the Greats of Christian Coterie (*Kudvetü'l-*

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the Danube, 354.

[77] A.DVNSMHM.d., 66/26, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 15; A.DVNSMHM.d., 66/517, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 339.

[78] Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115*, 137-39, 208.

[79] A.DVNSMHM.d., 75/154: 90; A.DVNSMHM.d., 75/357: 180; A.DVNSMHM.d., 75/643: 306.

[80] A.DVNSMHM.d., 18 Numaralı Mühimme Zeyli Defteri: 228a/2.

[81] "bi'l-cümle Boğdan reâyâsı sâir gibi Memâlik-i Mahrûsem reâyâsı gibi olup," "Eflak reâyası harbî değildir sâir Memâlik-i Mahrûsemde olan reâyâ gibidir" quoted in Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 321-26.

milleti'l-mesîhiyye umdetü küberâi't-tâifeti'l-Îseviyye)." In this document, voivode was repeatedly charged to be careful about annual payments and warned to be just and not to be oppressor against Moldavian subjects. In return, the sultan ordered boyars, elites and all other subjects to recognize him as the voivode and apply to him in their affairs, which could be associated with given autonomy in their internal affairs. As for the external relations, the voivode was ordered to follow the Porte by saying "be friend to my friend, be enemy to my enemy (*dostuma dost düşmanıma düşman ola*)." Then, the charter regulated the relations between the people of *Memâlik-i Mahrûse* (the protected lands) and subjects of Moldavia. *Rençber*s (day-labourers) coming from "the protected lands" cannot be touched and should be safe. Also, viziers, governor-generals and other servants of the sultan were commanded not to interfere and offend province of Moldavia and its boyars, knezs, subjects, girls, sons, herds and other properties.

Although lives and properties of Moldavian subjects were guaranteed, mentioning the people of *Memâlik-i Mahrûse* and *reâyâ* of Moldavia separately leads us to think that Moldavia was still implicitly perceived distinct from *Memâlik-i Mahrûse*, even if with nuances.[82] Likewise, Panaite cites Murad III's statement in 1585 about inapplicability of shariah in Moldavia for it is not considered within Abode of Islam, which brought about modern historians to assume Moldavia outside of Abode of Islam.[83]

All the reports do not allow us to draw a definite conclusion regarding the status of these principalities during the late sixteenth and early seventeenth centuries. Evaluating these accounts, one might come up with various interpretations to make sense of the ambiguous situation. İnalcık and some other Ottoman historians applied the notion of *Dâru'l-Ahd* (Abode of Contract) to explain the issue. According to İnalcık, "Ottoman-Boghdan relations rested on the Islamic principle of *Dâru'l-Ahd*," an intermediary status between Abode of Islam and Abode of War, referring ahdnâmes as evidence for his claim.[84] Criticizing İnalcık's approach due to the fact that *Dâru'l-Ahd* is a Shafii concept and does not belong to Hanafism, Viorel Panaite put forward another terminological explanation within Hanafism, referring to the

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[82]For example, see this part: "...Dostuma dost düşmanıma düşman ola Memâlik-i mahrûsem halkından vilâyet-i Boğdan'a varıp rençberlik edenlerin mallarına ve canlarına kimesne dahl ve taarruz etmeyip kemâl-i emn ü emân üzere olalar ..." Feridun Ahmed Bey, *Münşeâtü's-Selâtîn*, vol. 2 (İstanbul: Takvimhâne-i Âmire, 1265), 398-99.

[83]Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 356.

[84]Halil İnalcık, "Boghdān," in *Encyclopaedia of Islam, Second Edition*, ed. Th. Bianquis P. Bearman, C.E. Bosworth, E. van Donzel, W.P. Heinrichs (Brill, 1979); Halil İnalcık, "Dār al-Ahd," in *Encyclopaedia of Islam, Second Edition*, ed. Th. Bianquis P. Bearman, C.E. Bosworth, E. van Donzel, W.P. Heinrichs (Brill, 1997).

concepts of *Dâru'l-Muvâdaa* (Abode of Reconciliation) and *Dâru'z-Zimmet* (Abode of Tributary Protection), sub-categories under Abode of Islam and Abode of War. The former was valid in the case that there is an agreement with *harbî* territory, yet still to be considered as Abode of War; whereas the latter would happen if there were tributary non-Muslim populations under Muslim protection. Based upon these concepts, Panaite narrates:

> Until the reign of Süleyman Kanunî, Moldavia and Wallachia should be regarded -due to their incomplete and discontinuous submission to the Porte- part of the Abode of Reconciliation (*Dâru'l-Muvâdaa*). ... Since Süleyman Kanunî, Ottoman authorities saw Wallachia and Moldavia as parts of the Abode of Tributary Protection (*Dâru'z-Zimmet*) within a wider Abode of Islam; their inhabitants agreed to pay tribute and obey the imperial authorities but retained their right to have a Christian leader, appointed by the sultan.[85]

This endeavor to figure out the ambiguous status of the principalities could offer some resolutions within Islamic jurisprudential language, though cannot be solely enough to understand the historical practice nor a mufti's point of view who was issuing fatwas at the center of these debates in his reality. Though Panaite refers to a fatwa of Akkirmani in the chapter of *Kitâbu's-Siyer* to prove that Moldavians were considered as *zimmî*s,[86] he seems to neglect a few other relevant fatwas. In three fatwas of *Kitâbu's-Siyer* relevant to this topic, Akkirmani perceives Moldavia as an intermediary zone; he does not principally treat it neither as Abode of Islam nor Abode of War.

> Question: If a slave, man or woman, said that I was *zimmî* or *zimmiyye* from *reâyâ* of Moldavia (Boğdan) before and man said I used to pay poll-tax (*cizye*) and woman said my husband used to pay, afterwards I left Moldavia and stepped in Polish lands (*Leh vilâyeti*) which was Abode of War and settled there, and I was taken captive from where I lived in, is he/she released for he/she was *zimmî* or *zimmiyye* before?
>
> Answer: He/she is enslaved, not released. Even if the case [their being

[85] Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 358-60.

[86] Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube*, 325.

> inhabitants of Moldavia] was proven and recorded (*Muharrer ve mukarrer olıcak*), settling in Abode of War is breakdown of the contract (*nakz-i ahiddir*).[87]

For instance, here, we see explicitly that Akkirmani considered migrating from Moldavia (*Boğdan*) to Polish lands (*Leh vilâyeti*) as moving to Abode of War. In other words, leaving Moldavia was regarded equal to leaving Abode of Islam. Being a former *zimmî* therefore did not suffice to prevent enslavement, for leaving Abode of Islam cancelled the contract of *zimmet*. So, Akkirmani assumed Moldavia's status closer to Abode of Islam while issuing this fatwa. An imperial command in 1590, before arrival of Akkirmani to Akkirman, also shows parallel indications. The letter of voivode notified the center that some Moldavian subjects fled from the repair of a castle and settled in Akkirman and its environs. In this one, there was an opposite movement, not from Moldavia to Poland, but from Moldavia to Akkirman or nearby towns. It is understandable from the command that there would be no punishment nor change in their status when fleers were captured.[88] This also indicates that in this year, the status of Moldavia was close if not the same to that of Akkirman.

> Question: A captive from Moldavia held by Zeyd willingly became Muslim. When all captives who was imprisoned with the abovementioned one were released in accordance with the sultanic order (*emr-i pâdişâhî*) because they were subjects (*reâyâ*) and *zimmî*s, can they also take Zeyd's captive becoming Muslim and release him?

It was probably a common issue in the frontier for Tatar raiders to enslave Moldavian and Wallachian subjects. The raiders must have considered Moldavia and Wallachia within Abode of War and consequently the inhabitants *harbî*s. They might also have wanted to exploit the subcategory that these regions fell in. However, the Ottoman center considered Moldavian and Wallachian inhabitants as its subjects. We may recall at this point the orders of Selim II in 1574 to not enslave Moldavian subjects. In a similar vein, many imperial orders in 1590s and 1600s were careful to not seize Moldavians and Wallachians as captives.[89] Thanks to an imperial command in September 1604, we know that Tatar raiders were plundering Moldavia

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[87] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 65b.

[88] A.DVNSMHM.d., 66/517: 339.

[89] A.DVNSMHM.d., 66/26: 15; A.DVNSMHM.d., 75/154: 90; A.DVNSMHM.d., 75/357: 180; A.DVNSMHM.d., 75/643: 306; A.DVNSMHM.d., 18 Numaralı Mühimme Zeyli Defteri: 228a/2.

and Wallachia and the subjects of the regions were disturbed.

> Command to the Tatar noble (*Tatarlar ağası*),
>
> The voivode of Moldavia sent petition to the imperial center that ... you raid over Moldavia, attack on its villages and take its subjects captives. Before that, although you had been already warned to not harass and harm [these regions] and not seize its subjects as captives, you became responsible and guilty for your acts against the sultanic order. I ordered that from now on you do not raid on Moldavia and do not capture its subjects, if I hear you again raid on those lands, your excuse shall not be accepted and you will be punished. Take this into consideration and beware of acting against my order.[90]

Despite the strict language by the imperial center against raiding on Moldavia and Wallachia, Tatar raiders seem to have increased pressure over Moldavian and Wallachian subjects in March 1605:

> ... Tatar bandits from Kırım, Bender and Akkirman crossed over the other side, stayed in Tatar villages in Dobruca and Baba Dağı, and those who managed to acquire horse and equipment from there together arrived in Moldavia and Wallachia and plundered these areas, damaged the subjects ...[91]

Akkirmani also encountered with a very similar issue. This question might even have been asked due to one of these plunders. Akkirmani's attitude towards Moldavian subjects was in accordance with the imperial orders. However, he was to do this with the language of jurisprudence:

> Answer: They can. He did not become Zeyd's property at all, [because] people of contract are free (*ehl-i zimmet ahrârdır*). However, after he became Muslim, he was ordered to settle in Abode of Islam.[92]

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[90] A.DVNSMHM.d., 75/357: 180.

[91] A.DVNSMHM.d., 75/154: 90.

[92] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 67a.

Akkirmani recognized people of Moldavia as *zimmî*s and subjects of Ottomans, hence they were free. For this reason, Zeyd was not allowed to imprison and enslave one of them. The following statement, on the other hand, in which Akkirmani informed new convert that he is required to settle in Abode of Islam is open for speculation. We can think that Akkirmani made this point as a precaution, to let new convert know this duty. Or, it could be also claimed that in Akkirmani's mind, though its inhabitants were *zimmî*s, Moldavia still was not included within Abode of Islam. Akkirmani must have expected new convert to turn back to his hometown after his release, however, he must not after he became Muslim, for Moldavia was not Abode of Islam. Regarding the context, the second explanation seems more likely. Next fatwa also brings us to think in this way.

> Question: When there is disorder (*fetret olup*) in vilâyet of Moldavia, *harbî*s from one side and Muslim soldiers (*asker-i İslâm*) coming from another confronted and fought [there], and *harbî*s looted horses and dresses of the Muslim soldiers and arrived in their lands, Abode of War, [together with the booties.] A couple of years later, after Zeyd bought one of those horses in Moldavia and turned back to his residence, Abode of Islam. If someone would be claimer for the horse and provide evidence, can he take it?
>
> Answer: No. The horse became out of Bekir's possession once the people of Abode of War's incursion and taking it back to their lands (*dârlarına idhâl ile*).[93]

This question must have been posed to Akkirmani during 1594-1601, when Moldavia was a place of conflict and insecurity. In those times, it was a politically unstable territory, where *harbî*s coming from their lands and Muslims from theirs' waged a fight. Expression "*fetret olup*" must have referred these years. As explained above, one year after Ali Akkirmani's arrival in Akkirman as mufti and professor, in 1593, the war erupted between Ottomans and Habsburgs and lasted for thirteen years. In 1594, voivodes of Wallachia, Moldavia and Transylvania joined to the Holy League and rebelled against the Ottomans and attacked the nearby Muslim settlements including Akkirman. Disloyalty of voivodes continued until the region was taken back under Ottoman ascendancy in 1601.[94] In any possibilities, joining the current

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[93] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 64b.

[94] Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi Cilt: 3 M. 1574-1703 H. 987-1115*, 137-206; Papp, "Moldavia."

circumstance of the area to its already complicated status, Akkirmani again viewed the area as an intermediary zone. In the question, statements of Zeyd's turning back from Moldavia to his hometown in Abode of Islam and *harbî*s' return to Abode of War proves that the mufti separated the area not only from Abode of Islam and but also Abode of War. However, while issuing fatwa, Akkirmani took the situation as "incursion of the infidels (*ehl-i harb istîlâ ve dârlarına idhâl ile*)" to Abode of Islam meaning that he presumed Moldavia within Abode of Islam.

In all three fatwas, Akkirmani seemed to employ an intermediary status for these territories, as it was in abovementioned sultanic charters and orders. He did accept the people of Moldavia as *zimmî*s and Ottoman subjects, but not definitely included area in Abode of Islam or exclude it from there. Nevertheless, in order to give a proper answer to questions, he postulated it either within Abode of Islam as we see in the first and third fatwas or Abode of War in the second one. Furthermore, it is hard to characterize Akkirmani's position with the applicability of the concepts of Abode of Contract (*Dâru'l-Ahd*) to Moldavia as İnalcık suggested, or that of Abode of Reconciliation (*Dâru'l-Muvâzaa*) and Abode of Tributary Protection (*Dâru'z-Zimmet*) as Panaite claimed. Because Akkirmani does not mention such concepts and one need more evidence to make a stronger claim than.

6.5 Conclusion

In the beginning of the chapter, Ramazan, the governor of Akkirman, sent a report to the imperial center. He described that there were many polities and outlaws and how it was complicated to rule in the area. When Ramazan delivered the report to Istanbul, Ali Akkirmani was in the city, and he has been the mufti of Akkirman for 14 years. Ramazan requested military help from the governor of Bender. Nevertheless, it is very unlikely that military power would have sufficed to control and rule the area. Then, the mufti of Akkirman was to bring the imperial law to the table. As a local to the city, Akkirmani knew that these raids and plunders were part of the life in Akkirman and nearby towns. He thereby used the imperial law accordingly. On *pençîk*, relying on the fatwa of Ebussuud, he did not impose distribution and thereby did not set a legal difficulty on livelihood of the inhabitants. As we saw in the titles of violation of contract, change of ownership and status of Moldavia, he used and adapted concepts and views of the jurisprudence such as *zimmet*, Abode of Islam and Abode of War in regional issues that he came across. To accomplish these, he used different means of authority that were possible to use in the late sixteenth

century. In all fatwas cited in this chapter, he gave place to added references to and consulted with the earlier opinions to establish his juristic authority. He was an appointed scholar-bureaucrat from the imperial center and his imperial authority emanated from this fact even implicitly. Also, his fatwas in conformity with the imperial orders implied that his rulings were in accordance with the state authority.

7. JURISTIC DEBATE AND FORMATION OF LEGAL NORM: ALI AKKIRMANI AND HIS FATWA ON CANNABIS

In this chapter, I will contextualize Ali Akkirmani's fatwa on cannabis within the larger debate and ongoing imperial legislation. Though the debate around drugs was already a disputed topic in earlier centuries, it was Kemâlpaşazâde who revived it in the first half of the sixteenth century. Kemâlpaşazâde's fatwa seems to have increased already spread consumption of opium and cannabis in the Ottoman lands. Most of the Ottoman scholar-bureaucrats including chief muftis after him thereby confronted Kemâlpaşazâde, and the Ottoman government prohibited consumption of these drugs around 1560. Several jurists directly engaged with Kemâlpaşazâde and opinions after him, yet some of them reacted primarily to people consuming them freely. Joining the debate lately, Ali Akkirmani made a considerable contribution to the debate with an overall look from the earliest jurists to Kemâlpaşazâde and his opposers. His mastery in jurisprudence and way of evaluating the opinions allowed him to have a significant juristic authority. His scholarly network that he had during his years in Istanbul put his fatwa on the agenda of the scholarly circles. Thus he was reputed by his fatwa on cannabis, as Atâyî informed. Because people widely used drugs, tobacco and coffee in coffeehouses, the Ottoman state had some troubles to deter people from cultivating and consuming them.

7.1 Use of Cannabis in the Sixteenth Century Ottoman World

It was probably *kalenderî*s, a branch of wandering ascetic Sufi dervishes, who introduced cannabis (*esrâr*, *benc*) to Anatolia when they fled from the Mongols. Cannabis was being used for medical purposes in earlier times. Ottoman physicians such as İshak b. Murad (d. ?), Celaleddin Hızır (d. 1424?) and Sabuncuoğlu Şerafeddin (d. after 1468) in the late fourteenth and fifteenth centuries explained the ways to

use it as cure.[1] It also became the subject of literary works in which different kinds of drugs and drinks which were personified discussing among themselves to prove which one of them the favorite one. Sixteenth century poems, Fuzuli's (d. 1556) *Beng ü Bâde*, Nidâyî's (d. 1567?) *Mübâhasât-ı Mükeyyifât* and two anonymous *Mükeyyifât-ı Âlem* were examples of them.[2] Numerous poets of Ottoman Dîvân poetry wrote verses on cannabis.[3]

We learn from Fakîrî's (d. after 1534) *Risâle-i Tarifât* that kalenderîs continued to use cannabis intensely in the sixteenth century.[4] European captives, travelers and ambassadors such as Giovanni Antonio Menavino, Pedro and Nicolas de Nicolay also testify that kalenderîs were consuming cannabis in high amounts.[5] As another account from the same century, Gelibolulu Mustafa Âlî records that "addicts (*tiryâkîler*) are clean when they smoke cannabis little by little, but they become disgusting when they are high."[6]

Not only marginal ascetics, but also relatively "normal" people smoked cannabis. Cannabis coffeehouses (*esrâr kahvehânesi*) were abundant in Istanbul; Tiryaki Çarşısı, Bozdoğan Kemeri, Tahtakale, Tophane, İskender Boğazı, Çifte Fırınlar, Silivrikapı, İshakpaşa, Küçük Langa, Mevlevihanekapı were the neigbourhoods that hosted coffeehouses.[7] Thus, it seems that the government tolerated consumption of these kinds of drugs, at least to some degree. Rumors that Özdemiroğlu Osman Paşa (d. 1585) was an addict of drugs did not deter Murad III (d. 1595) to appoint him grand vizier in 1584. Even, their plantation was justified due to taxes of *öşr-i afyon* (tithe of opium). In the district of Karahisar, for instance, we know that taxes collected from opium increased six times from 1528 to 1572. A similar development also true for the district of Hamit.[8] In the sixteenth century, production of raw

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[1] Onur Gezer, *Osmanlı'da Esrar ve Esrarkeşler: Hayaller Sancağının Kuru Sarhoşları* (İletişim Yayınları, 2021), 34-39.

[2] Gezer, *Osmanlı'da Esrar ve Esrarkeşler: Hayaller Sancağının Kuru Sarhoşları*, 44-59.

[3] Gezer, *Osmanlı'da Esrar ve Esrarkeşler: Hayaller Sancağının Kuru Sarhoşları*, 62-75.

[4] "Nedür bildüŋ mi kimlerdür Ḳalender / Yata bengī olup sedd-i Sikender" Taner Gök, "16. Asır Osmanlı Toplumuna Açılan Bir Pencere Fakîrî'nin Risâle-i Ta'rîfât'ı," *Divan Edebiyatı Araştırmaları Dergisi* 2, no. 23 (2019): 359.

[5] Gezer, *Osmanlı'da Esrar ve Esrarkeşler: Hayaller Sancağının Kuru Sarhoşları*, 92-93.

[6] Gelibolulu Mustafa Âlî, *Görgü ve Toplum Kuralları Üzerinde Ziyâfet Sofraları (Mevâidü'n-Nefâis fî Kavâidi'l-Mecâlis)*, ed. Orhan Şaik Gökyay (İstanbul: Tercüman 1001 Temel Eser, 1978), 88. Also for a detailed depiction of addicts of cannabis (esrarkeş) in the Ottomans see: Abdülaziz Bey, *Osmanlı Âdet, Merasim ve Tabirleri (Âdât ve Merasim-i Kadime, Tabirât ve Muamelât-ı Kavmiye-i Osmaniye)*, ed. Duygu Arısan Günay Kâzım Arısan (İstanbul: Tarih Vakfı Yurt Yayınları, 1995), 327-29.

[7] Salâh Birsel, *Kahveler Kitabı* (İstanbul: Sel Yayıncılık, 2014), 189.

[8] Ahmet Gümüşçü, Osman Gümüşçü, "Türkiye'de Haşhaş ve Haşhaş Tarımının Coğrafi Dağılışı," *Ankara Üniversitesi Türkiye Coğrafyası Araştırma ve Uygulama Merkezi Dergisi*, no. 6 (1997): 134.

material of these drugs was a profitable way of farming.[9] A French traveler, Pierre Belon (d. 1564) observed in the mid-sixteenth century that opium (*afyon* and *haşîş*) was considerably planted in western Anatolia and consumed intensely by people.[10] Hans Dernschwam (d. 1568) also testified in his voyage to Istanbul and Anadolu that people smoked cannabis (*esrâr*) and opium (*afyon*) widely.[11]

7.2 The Drugs Debate

In the sixteenth century, when the consumption of opium and cannabis was widespread in Istanbul and provinces, the debate on drugs (*mükeyyifât*) became heated among Ottoman jurists. This issue had already been discussed in earlier centuries. As early as in the eighth century, Ebu Hanîfe (d. 767) and Süfyân es-Sevrî (d. 778) expressed their opinions on legal acts of a drunk of cannabis. Shafiite scholar Müzeni (d. 878) declared its prohibition (*harâm*), whereas Hanafi scholar Esed b. Amr (d. 806) issued fatwa on its permissibility (mübâh). After a while, Hanafi scholars of Transoxiana reached the consensus (*icmâ*) on its prohibition.[12] In the following centuries, jurists expressed their opinions on drugs and relevant issues in their jurisprudential treatises. Some of those jurists can be mentioned: Ebu'l-Leys Semerkandî (d. 983), Kudurî (d. 1037), Serahsî (d. 1090), Kâdıhan (d. 1196), Mergînânî (d. 1197), Timurtaşî (d. 1213), Ebu'l-Berekât en-Nesefî (d. 1310), Bâbertî (d. 1384), İbn Melek (d. after 1418), Aynî (d. 1451), İbn Kutluboğa (d.1478) and Molla Hüsrev (d. 1480).[13] Names and periods that they lived in remark the continuity of the debate from the early centuries of Islam until the Ottoman period. During these centuries, jurists primarily maintained the consensus and restricted its permissible usage to only medical purposes. Therefore, rather than its permissibility, main problematics in this debate have been the legal actions of the drunk: validness of the drunk's divorce, the kind of punishment the drunk

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[9] Suraiya Faroqhi, *Osmanlı Kültürü ve Gündelik Yaşam*, trans. Elif Kılıç (İstanbul: Tarih Vakfı Yurt Yayınları, 2005), 237-38.

[10] Pierre Belon, *Pierre Belon Seyahatnamesi: İstanbul ve Anadolu Gözlemleri (1546-1549) Antakya, Adana, Konya, Afyon, Kütahya, Bursa,* trans. Hazal Yalın (İstanbul: Kitap Yayınevi, 2020), 146-47.

[11] Hans Dernschwam, *İstanbul ve Anadolu'ya Seyahat Günlüğü*, trans. Yaşar Önen (Ankara: Kültür Bakanlığı Yayınları, 1992), 79-80.

[12] Franz Rosenthal, "The Herb: Hashish versus Medieval Muslim Society," in *Man versus Society in Medieval Islam*, ed. Dimitri Gutas (Leiden: Brill, 2014), 182; Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 19-20.

[13] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 33-76.

will be imposed.[14]

It was Kemâlpaşazâde (d. 1534), the chief mufti from 1526 to 1534, who started (or revived) the debate among the Ottomans. In fact, Kemâlpaşazâde did not diverge from the general opinion that smoking cannabis for pleasure is not permissible and it is allowed solely for medical purposes. His fatwa that consumption of cannabis is not forbidden until inebriation (*hadd-i sekr*) also must have aimed medical purposes. But he pointed out a nuance, which later to become the central issue, that its essence (*asl*) was not forbidden (*harâm*):

> [Question:] What is your opinion on this [cannabis]? Is cannabis permissible or forbidden, may good rewards upon you.
>
> Answer: Cannabis (*esrâr*) is permissible on the basis of its essence, not forbidden.[15]

In other words, according to Kemâlpaşazâde, consuming cannabis would not lead someone to infidelity but make him sinner. Thereby those who consumed it and declared that "it is permissible (*helâl*)" would need to repent (*istiğfâr*). The Ottoman fatwa was more than a private act, particularly the fatwa of chief mufti had institutional authority over the people. Therefore, this fatwa provided the smokers and traders with a legitimate ground for their actions. Kemâlpaşazâde also propounded that divorce (*talâk*) of those who became inebriated because of cannabis is not valid and smokers of cannabis deserve discretionary punishment (*tazîr*).[16]

Fenârîzâde (d. 1548), the chief judge of Rumelia, who was already at odds with Kemâlpaşazâde due to an earlier dispute, accused him of damaging the religion and sharia. To Fenârîzâde, based on Kemâlpaşazâde's fatwa, a great number of people consumed cannabis believing that it is permissible:

> ... as he issued the fatwa asserting that cannabis is permissible, the public consume opium and cannabis believing its permissibility. God forbid it is known among the scholars how it is harmful to the religion and sharia. And it is also certain among the scholars and righteous

[14] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 29-30.

[15] Şehid Ali Paşa, 2752, 319a, Süleymaniye Yazma Eserler Kütüphanesi.

[16] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 106.

> people what does deserve who issues fatwa declaring permissibility of a forbidden thing.[17]

Considering that Fenârîzâde was at enmity with Kemâlpaşazâde in 1530, this fatwa of him targeting Kemâlpaşazâde was likely to be issued, when Kemâlpaşazâde was still alive. Sadî Çelebi (d. 1539), the successor of Kemâlpaşazâde in the office of chief mufti, also engaged with Kemâlpaşazâde 's opinion. He criticized him with a quoted poem:

Leave wine for its punishment is certain, Because you asked fatwa whether it is forbidden Beware, beware of the cannabis, it is prohibited, Even if the mufti issues fatwa that it is permitted.[18]

Sadî Çelebi evidently criticizes Kemâlpaşazâde for his opinion about cannabis. A few decades later, the chief mufti Ebussuud (d.1574) confronted Kemâlpaşazâde too. Directly mentioning his name and targeting his opinions, Ebussuud considered Kemâlpaşazâde's stance harmful for the sake of public good. He thought that the people misunderstood Kemâlpaşazâde's opinion on consuming cannabis:

> ... Because he gave that answer majority of the people believed that it was permissible to consume it, they sell and consume it publicly without recalling its prohibition and being ashamed ... [19]

Ebussuud must have considered Kemâlpaşazâde's fatwa an irresponsible act that did not care social consequences of declaring such a legal opinion. On the other hand, Ebussuud identified that consumption of cannabis is forbidden, and smokers and buyers of it became apostate (*mürted*). Ebussuud had a harsh attitude against the consumption of cannabis, because he was keen on preventing this social tendency and deterring those who profited from it. Still, both chief muftis were common in invalidity of divorce of inebriated ones because of cannabis. In another fatwa, Ebussuud criticizes Kemâlpaşazâde more harshly for creating a ground resulting in the probability of cannabis' permissibility:

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[17] "esrâra helâl deyu fetvâ viricek âmme-i nâs dahi esrarı ve afyonu helâl deyu ekl ider, el-iyâze bi'l-lâh bundan dîne ve şer'a ne mertebe halel geldügi ulemâya ma'lûmdur ve bunun gibi harâma helâl deyu fetvâ virenin dahi inde'l-'ulemâ' ve'l-fudalâ' mûcebi ne idüğü ma'lûmdur" Şehid Ali Paşa, 2752: 318a.

[18] Çorlulu Sinan b. Ramazan, *Mecmû'atü'l-Fetâvâ*, Beyazıt Devlet Kütüphanesi Beyazıt 2757, 279b.

[19] M. Ertuğrul Düzdağ, *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı* (İstanbul: Enderun Kitabevi, 1972), 145.

> It is evidently forbidden and they are committing the forbidden. Presuming its permissibility is obvious ignorance and improper arrogance.[20]

Ebussuud increased the tone of criticism in this fatwa implicitly labeling Kemâlpaşazâde to be ignorant and arrogant. The debate on cannabis continued after Ebussuud as well. In 1584, Mahmûd b. Pîr Mehmed wrote *Risâle fî Hurmeti'l-Haşîş ve'l-Afyon* when he was professor in İznik Madrasa. In the epistle, he put forward that opium and cannabis are certainly forbidden. He discusses various opinions on the issue. He quotes Ibnü'l-Hümâm's (d. 1457) opinion that the divorce of the one who consumed opium and cannabis was invalid if he consumed it for the sake of cure; yet if he consumed for the sake of pleasure, it becomes valid.[21] Towards the end of the epistle, he states that the positions of Kemâlpaşazâde and Ebussuud on cannabis do not differ from Ibn Hümâm's opinions:

> On this, Ibnü'l-Kemâl issued fatwa suggesting its permissibility based on his [Ibnü'l-Hümâm] first opinion [that it is permissibly for the sake of cure]. The fatwa of Ebussuud on its forbiddance is based on his other opinion [that it is forbidden to use it for the sake of pleasure].

Therefore, according to Mahmûd b. Pîr Mehmed, two chief muftis do not disagree with each other and approve that it is forbidden.[22] Contemporary of Mahmûd b. Pîr Mehmed, Mahmud b. Süleymân el-Kefevî (d. 1582), the judge of Caffa, participates in the discussion in his biographical dictionary *Ketâibu Alâmi'l-Ahyâr min Fukahâi Mezhebi'n-Numâni'l-Muhtâr* in the article of aforementioned Esed b. Amr (d. 806). While narrating his biography, Kefevî indirectly touches upon the issue of cannabis while talking about the transfer of Müzeni's fatwa to Esed b. Amr. Then, he quotes Kemâlpaşazâde 's fatwas and several other opinions. Interestingly, he does not give place to neither Fenârîzâde's nor Ebussuud's criticism. Regarding that Kefevî died eight years after Ebussuud and decades after Fenârîzâde, it is

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[20] "Muzahraf kelimâtdır. Ehl-i ilm sözün değildir. İmâm Timurtâşî'ye iftirâ etmiştir. Cehlin ve taassubun izhâr edip haşîşi benc deyu itirâf etdikden sonra ol hodbân? söyleyecek söz değildir. İbâhatına tasrih-i cemSarîhan harâmdır ve harâma mürtekiblerdir. Anın ibâhatine ihtimal vermek cehâlet-i sarîha ve mükâbere-i kabîhadur" Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 118-21.

[21] Muhyiddin Efendi Mehmed b. Ali en-Fenârî, Risâle fî Beyâni Hurmeti'l-Haşîş ve'l-Afyon Ceme'ahâ Mahmûd b. Pîr Mehmed el-Fenârî, Süleymaniye Yazma Eserler Kütüphanesi Laleli 3675.

[22] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 165.

unlikely that he did not know their opinions. Then, as Tan also interprets, it might be the case that Kefevî supported Kemâlpaşazade. Yusuf Sinanüddin el-Amâsî's (d. 1592) in *Risâle fî Hurmeti'l-Afyon* also endorses the opinion that opium and cannabis were prohibited to be consumed, sold or bought. He seems to not have engaged with Kemâlpaşazâde and only mentions that his position is in agreement with Ebussuud's fatwa.[23]

Except for these, until Ali Akkirmani, other contributions did not directly engage with Kemâlpaşazâde and his opponents. Dede Cöngî's (d. 1567) *Risâle fî Tahrîmi'l-Benc* can be cited in this regard. Dede Cöngi's comprehensive work brought new sources to the discussions. Nevertheless, interestingly, he did not mention any names within the ongoing debate.[24] Radıyyudîn İbnü'l-Hanbelî (d. 1563) and Ebu'l-Hasan İbnü'l-Cezzâr (d. after 1576) expressed their opinions on the issue from Aleppo and Cairo with epistles of *Zıllü'l-Arîş fî Meni Hılli'l-Benci ve'l-Haşîş* and *Kamu'l-Vâşîn fî Zemmi'l-Berrâşîn*, respectively.

Following scholars are some of those who declared their conclusions about opium and cannabis not with a separate epistle but within their other treatises and fatwas: Muhyiddîn el-Karabâğî (d. 1535), the chief mufti Çivizâde Muhyiddin Efendi (d. 1547), Ibn Nüceym (d. 1563), qadi of Marmara Rasul b. Salih el-Aydınî (d. 1570), İbnü'ş-Şelebî (d. 1570), the chief mufti Kadızâde Ahmed Şemsüddin (d. 1580), the qadi of Caffa Mahmud b. Süleyman el-Kefevî (d. 1582), the judge of Malkara Mehmed b. Şeyh Muslihuddin (d. after 1595),[25] Ahmed er-Rûmî el-Akhisârî (d. 1632)[26] and so forth. These scholars did not place themselves within the debate that Kemâlpaşazâde started out. However, it is hard for them to be unaware of it. Therefore, we can think of that while they asserted their thoughts, they knew who said what. Furthermore, it seems that the majority of the arguers were scholar-bureaucrats in the official hierarchy which shows its popularity among the scholarly circles in Istanbul. Scholars in the debate from Aleppo and Cairo might have had notice of the dispute or they might just have expressed their opinion on a social problem.

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[23] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 160.

[24] Dede Cöngi, *er-Risâle fî Tahrîmi'l-Benc*, Süleymaniye Yazma Eserler Kütüphanesi Şehit Ali Paşa 1192, 44a-51a; Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 147.

[25] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 170-89.

[26] Ahmad al-Rumi al-Aqhisari, *Against Smoking: An Ottoman Manifesto*, ed. Yahya Michot (Leicestershire: Kube Publishing, 2016), 60-63.

7.3 Akkirmani's Fatwa on Cannabis

Ali Akkirmani was probably the last scholar who participated in the debate. He wrote an epistle-like fatwa on cannabis. Akkirmani's numerous fatwas were already long, compared to those of chief muftis and other provincial muftis. However, the one on cannabis occupies more than two pages allowing us to consider it an epistle. About fifteen years after Akkirmani's death, Atâyî laid emphasis that Akkirmani's fatwa on the prohibition of cannabis was recognized and famous (*bâ husûs tahrîm-i bencde olan fetvâsı müteârif u meşhûrdur*).[27] Atâyî did not mention among whom it was famous or from which aspects it was recognized, yet the fatwa must have been influential among scholarly circles. He probably owed some of his reputation to this fatwa. Then, we should ask, why and how a fatwa of a provincial mufti became known in the center and other parts of the empire?

The question was that:

> Are benc and haşîş, which are cannabis leaf and known as marijuana among evil people, halal or haram? Please let us know in detail–may the good rewards be upon you.[28]

Akkirmani starts with narrating the opinions of the past scholars on the issue. The Shafiite scholar Müzenî (d. 264/878) expressed its prohibition. When this opinion reached to Hanafi scholar Esed b. Amr (d. 190/806), he declared that it was permissible. After that, Akkirmani presents his own opinion briefly before going into detail. He propounds that because depraved and wicked people (*esâfil ve evbâş min gayrı mübâlât ve tehâş*) started to use these drugs widely all over the Iraqi lands, Hanafi scholars also affirmed Müzenî's opinion later and issued the fatwa of prohibition. Therefore, today both madhhabs agreed in this opinion.

Thereafter, Akkirmani mentioned the earliest discussions both in Hanafi and Shafiite schools and briefly told his opinion in the first part; in the second part, he discusses the opinions of Hanafi scholars, most of whom from twelfth to sixteenth centuries, directly quoting or paraphrasing their texts (*mutûn*) and commentaries (*şurûh*). The books that Akkirmani engaged were *el-İhtiyârât* of Abdülvâcid b. Muhammed (d. 837/1434), Şerhu Câmiu's-Sağîr of Timurtâşî (d. 610/1214), *el-*

[27] Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 2, 1603.

[28] "Benc u haşîş ki varak-ı kınnebdir eşrâr mâbeyninde esrâr demekler marûfdur helâl mıdır harem mıdır tafsîlen beyân buyurup müsâb oluna." Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 255a.

Mübteğâ of Muhammed b. Ahmed el-Akşehirî (d. 739/1339), *el-Müntekâ* of Mecdüddîn Ibn Teymiyye (d. 1254), *Şerhu Muhtasaru'l-Kudûrî* of Hâherzâde (d. 483/1090), *el-Cevheretu'n-Neyyire* of Ebu Bekir el-Haddâdî (ö. 800/1397), *el-Hidâye* of el-Mergînânî (d. 593/1197), *en-Nihâye* of es-Siğnâkî (d. 714/1314), *el-İnâye* of Ekmeleddin el-Bâbertî (d. 786/1384). While citing the opinions, Akkirmani actively evaluates them, stating who expressed these opinions in response of whom, and positions himself on the debate.[29]

As mentioned above, there were two main problems about the issue of cannabis. Akkirmani, being aware of them, engages both: the type of punishment, whether to be fixed (*hadd*) or discretionary (*tazîr*) and validity of divorce (*talâk*). He quotes both camps advocating for the fixed punishment and validity of divorce on the one side and discretionary punishment and invalidity of divorce. Akkirmani shows how Imâm Haddâdî agreed with el-Mergînânî on that those drunks of cannabis would not deserve fixed punishment (had). Then, he indicates that es-Siğnâkî showed evidence (*nass*) on fixed punishment. However, Akkirmani states, being unaware of the introduction of Imâm Mahbûbî where he transmitted Ebu Hanîfe's opinion leading to the forbiddance of cannabis, Bâbertî (*sâhib-i İnâye*) falsified es-Siğnâkî. After evaluating the arguments, he takes İmam Mahbûbî's transmission from Ebu Hanife as the reference point. Imâm Mahbûbî narrated that:

> I found with the writing of my master [Ebu Hanîfe] that today, the opinion that the divorce of those who became drunk of cannabis is valid and fixed penalty is executed for this act became widespread among people.

Next, Akkirmani assesses two jurists, Imâm Bâbertî and Ibn Melek based on their familiarity with this transmission. He finds the opinion of Bâbertî wrong whereas that of Ibn Melek true. He states that Ibn Melek engaged the scholars of Islamic jurisprudence (*ulemâ-i usûl*) with this transmission, who were inclined to permissibility of cannabis and demonstrated evidence for its forbiddance. Thus, Ali Akkirmani takes stance with the camp that required fixed punishment and validity of divorce.

He then leaps to the Ottoman period, devoting the third part for the sixteenth-century debates. Akkirmani criticizes the former Chief Mufti Kemâlpaşazâde (d. 940/1534)'s opinion that cannabis (*benc*) is permissible. According to Akkirmani, Kemâlpaşazâde based his opinion on Esed b. Amr's fatwa and superficial meanings

[29] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 255b.

of the books of principles of Islamic jurisprudence (*usûl*) and substantive law (*furû*). However, Akkirmani claims, there is no way to apply Kemâlpaşazâde's opinion:

> The Pride of Anatolia, the Lord of the Scholars, Kemâlpaşazâde issued fatwa overconfidently on the permissibility of cannabis on the basis of İmam Esed's fatwa and the superficial evidence, written in the majority of the books of principles of Islamic jurisprudence and substantiative law. Nevertheless, it has no share from the ornament of truth and there is no way to act accordingly. This is because the consensus of later scholars on its forbiddance happened. As it is obvious and evident in the discipline of principles (*ilm-i usûl*) that the new consensus cancels the former dispute.

Since the consensus required its prohibition, and it is well-known in the books of principles that the later consensus cancels the early dispute (*İcmâ-yı lâhık hilâf-ı sâbıkı ref eder*). Akkirmani also clarifies that the former permission was for the sake of cure, yet today (*fî zamânînâ*) it is consumed for pleasure and enjoyment:

> In most of the books in which it was permitted, it was on the assumption that an object was believed to be cure and therefore was eaten. It is as light as fire . . . ? As for today, the aim [in its consumption] is amusement, joy, fun and pleasure. Allah knows who intends harm and who intends good and knows the sly glances of the eyes and whatever the hearts conceal. [30]

After that, he includes the successor of Kemâlpaşazâde in the office of Chief Mufti, Sadî Çelebi (d. 945/1539) in the debate. Just before introducing Sadî Çelebi's verses, he refers to a principle of jurisprudence about the change of the judgements:

> It is written in many places in the authoritative books that the ruling changes depending on the change of time and purposes.[31]

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[30] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 255a-b.

[31] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 256a.

Bringing the principle on the agenda, he seems to justify his abovementioned opinion that cannabis was allowed earlier because it was used for the sake of cure, yet since its use of purposes changed, the judgment would change accordingly. Akkirmani cites a verse fatwa of Sadî Çelebi in Arabic mentioning his opposition to Kemâlpaşazâde in which he declared the strict prohibition of cannabis. After that, he quotes two verses of İbnü'ş-Şıhne (d. 921/1515) in Arabic, also supporting the prohibition of these drugs. Akkirmani finds these verses of another sixteenth-century scholar quite explanatory and convincing in terms of banning cannabis:

> In the chapter of undesirables (*kerâhiyyet*) of the commentary of *Manzûme-i İbni Vehbân*, the chief of Islam İbn Şıhne evidently demonstrates through these two verses the forbiddance of cannabis with a satisfying elaboration and persuasive extension.

He finalizes his answer with another verse, belonging to some wise men (*bazı ukalâ*) accusing the consumers of opium to be ignorantly foolish (*sefîh*).[32] With "*bazı ukalâ*" as different copies show, it was the Chief Mufti Ebussuud Efendi (d. 982/1574) who Akkirmani referred.[33]

This fatwa is fruitful for several aspects. It helps us see how Akkirmani established his juristic authority. Akkirmani starts with an introduction, where he briefly clarifies his opinion within the debate. He mentions the earliest opinions from the ninth century which directed the later discussions. Then, in the second part, he evaluates the opinions of the scholars from twelfth to sixteenth centuries. In the third part, he eventually brings forward recent discussions of the sixteenth century. Overall, in his fatwa, he discusses the scholars chronologically referring the milestones in the literature. He perceived the earlier jurists in three layers. By doing this, he proved his comprehension, knowledge and penetration about the past discussions and his opinion's validness.

We can see how Akkirmani successfully applied juristic instruments in his cannabis fatwa. He twice used general principles (*kavâid*) as a discourse and way of constructing his juristic authority. To prove the position that the permissibility for cannabis is no longer valid, he mentioned the principle that the later consensus cancels the early dispute (*İcmâ-yı lâhık hilâf-ı sâbıkı ref eder*). Another general principle was also implicitly in operation, which was the change of the rulings basing on the change

[32] Akkirmani, *Fetâvâ-yı Akkirmani*, Veliyyüddin Efendi, 1470: 255a-56a.

[33] Tan, "Hanefî Furû Fıkıh Literatüründe Uyuşturucu Maddelerin Hükmü: İbn Kemal ve Ebussuud'un Afyon, Benc ve Haşiş Hakkındaki İhtilafları Örnekliğinde Bir İnceleme," 168.

of time. He implied that the former permission needed to change, because today (*fî zamâninâ*) it is not used for the sake of cure as it was before.

7.4 Fatwa on Cannabis or How to Place Akkirmani in the Formation of Legal Norms?

In his biographical dictionary, Atâyî mentioned only a few muftis naming their famous fatwas[34] and Akkirmani was one of them, thanks to his fatwa on cannabis. This gives hint about its scholarly acceptance. If we take the influence of the debate on cannabis as a whole, from 1530s to Akkirmani, we might speculate that it must have been influential in some ways.

Akkirmani's cannabis fatwa was peculiar in several aspects. The fatwa demonstrates how Akkirmani perceived the previous discussions, how he engaged with them and constructed his authority within the madhhab. Secondly, it provides evidence to see how he could manage to gain a seat among scholarly circles from a frontier city. The network that he created during his years in the Sublime Porte before arriving in Akkirman must have been effective to include his fatwa among other scholars' agenda. He must have authored it after he had come to Akkirman and in the absence of this network, it would be hard to deliver his epistle-fatwa in the debate of cannabis to other scholars. In other words, this network was like a pre-requisite for conveying his opinions over the borders of Akkirman to other parts of the empire. Thirdly, his mastery in Islamic jurisprudence, his self-confidence before the famous scholarly figures even starting from the very early centuries and his style while arranging his fatwa, criticizing the opponents and placing himself in a position brought about this fame.

It is also noteworthy that Akkirmani participated in the discussion very late. Apart from Akhisârî, whose main focus in that epistle was on tobacco and issued his opinions on cannabis indirectly, all of the major contributions to the debate of opium seem to have already been made from 1530s to 1600. This gave him a chance to evaluate the debate with an overall look. It can also be his general presentation of the debate that he became famous for, for other participants of the debate could not make a general overview of literature in a periodical consciousness.

In the hierarchical organization of the Ottoman scholars, the chief mufti at the top

[34] Muslihiddîn Lârî (d. 1572) for his fatwa on dance (*raks*), Selânikî Nasuh Efendi (d. 1573) for his fatwa on divorce (*talâk*), Kutbuddîn el-Mekkî (d. 1582) on a kind of attar (*zebâd*). Atâyî, *Hadâ'iku'l-Hakâ'ik fî Tekmileti'ş-Şakâ'ik Nev'îzâde Atâyî'nin Şakâ'ik Zeyli*, 1, 611, 35, 815.

and provincials in the lower strata, Akkirmani did not omit to demonstrate esteem to those who were above him, as the pre-determined Ottoman written language required in other fatwas of him as well as in that of cannabis. In the latter, even though he criticizes the chief mufti Kemâlpaşazâde, he names him with the epithet "The Pride of Anatolia, Lord of the Scholars (*iftihâru'r-Rûm ve sadru'l-kurûm*)." Yet at the level of scholarship, Akkirmani seem to have disposed of this esteem for his harsh criticisms for the opinions of the former mufti. In other words, though Akkirmani took seriously the hierarchy institutionally, he disregarded it when it came to scholarly discourse. Therefore, as a provincial mufti, he challenged Kemâlpaşazâde, a former chief mufti. This shows that he saw himself capable of criticizing a figure juristically, who had been positioned at the very top hierarchically.

To understand Akkirmani's fatwa with its wider and -in some aspects- indirect aspects, one should consider how the Ottoman center coped with and put restrictions against drugs, tobacco, coffee and their common place of consumption, coffeehouses into effect. Compared to coffee and tobacco, which were to be introduced after the mid-sixteenth and early seventeenth centuries, opium and cannabis were already widespread in the Ottoman lands, even possibly before the sixteenth century. The spread of coffee was dated to 1550s in Egypt and then Istanbul. According to Peçevi İbrahim Efendi (d. 1650), there was no coffee or coffeehouses in Istanbul and Anatolia until 1554. After this year, it came to be consumed among some literates. Despite precautions taken during the reign of Murad III, its popularity became irresistible. On the other hand, Peçevi informs that English merchants introduced tobacco in 1600 as a treat; yet shortly afterwards, many became addicted to it for pleasure.[35]

It is possible to observe the spread of coffeehouses, coffee, tobacco and other drugs through imperial decrees. They prove that the Ottoman center had already begun to take precautions against coffee and coffeehouses as early as 1567. In these, it was complained that officials failed to fulfill their duties because they spend much time in coffeehouses. For a decade, there are only decrees related to coffeehouses and its side effects. The imperial decree sent to the judge of Bursa in 1578, however, shows how coffeehouses became known together with other activities through which people wasted time such as drugs and games:

> ... Those coffeehouses that were the gathering place of the mischievous

[35]Peçevi İbrahim, *Târîh-i Peçevî Cild-i Evvel* (İstanbul: Matba'a-i Âmire, 1866), 363-66. For the spread of coffee in Cairo due to changing trade and consumption patters see: Nelly Hanna, "Coffee and Coffee merchants in Cairo, 1580-1630," in *Le Commerce du Café Avant l'ere des Plantations Coloniales: Espaces, Réseaux, Sociétés (XVe-XIXe siècle)*, ed. Michel Tuscherer (Cairo: Institut Francais D'archeologie Orientale, 2001).

> people were to be closed. They consume sweets made of opium (*berş* and *afyon*) and cannabis (*benc*) in their coffees, and most of them drink wine and raki as if they are coffee. They play games of backgammon and chess (*nerd satranc ve tavîle*) and gamble (*kumar oynanmak suretiyle*) ...[36]

A fatwa of Ebussuud which he issued probably during his last years also confirms this. In the fatwa, coffeehouses were mentioned together with various wicked games (*âlât-ı lehv ü tarab*) such as backgammon (*tavla*), chess (*satranc*) and drugs such as opium and sweets made of it (*afyon* and *berş*) and cannabis.[37]

It was not before 1613 that tobacco became referred in the decrees as another forbidden object. The frequency of decrees related to tobacco (*tütün* or *duhân*) apparently intensifies after 1630, particularly during 1637 and 1638.[38] The recurring themes in the decrees were that the officials do not fulfill their duties because they spend their hours in coffeehouses smoking tobacco, and that cultivation of tobacco brought about rise in the prices of beeswax and smoking it caused fires. Furthermore, it is easily noticed that the tobacco also joined the enjoyment of coffeehouses. A decree sent to Rodos in 1638 reveals that coffeehouses and tobacco mentioned together.[39]

There are tens of similar decrees, if not hundreds, in which the government warned officials to enforce the prohibition of coffee, tobacco, opium, cannabis as well as chess and backgammon and as the common place of pleasure of them, coffeehouses. The stricter attitude during 1630s was related to Kadızadelis' influence. A contemporary historian Solakzâde Mehmed narrates in his *Târîh* that they persuaded Murad IV to execute who did not obey the prohibition against tobacco.[40] The sultan might really have been influenced by Kadızadelis, yet at the same time, he also must have sought to avoid rumors and potential opposition against his rule. To sum up, it is apparent

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[36] "Bursa kâdısına hüküm ki ... mecma-ı feseka olan kahvehâneler külliyyen ref olunup herkes kâr u kisbinde olup ... taze levendler ile kahvehane içinde berş ve macûn ve benc ve afyon tenâvül edip ve diğer zamânda kahve bahanesiyle şarab ve hamr ve ırakı eyleyip ve nerd ve satranç ve tavla ve kumar oynayıp ..." A.DVNSMHM.d., 35/225, Devlet Arşivleri Başkanlığı Osmanlı Arşivi, 91.

[37] Düzdağ, *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 149.

[38] A.DVNSMHM.d., 88/324, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 85/257, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 85/190, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 85/380; A.DVNSMHM.d., 87/155, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 88/53, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 88/44, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 88/145, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; A.DVNSMHM.d., 88/271, Devlet Arşivleri Başkanlığı Osmanlı Arşivi; 88 Numaralı Mühimme Defteri, A.DVNSMHM.d., 88/324, Devlet Arşivleri Başkanlığı Osmanlı Arşivi.

[39] A.DVNSMHM.d., 88/324.

[40] Solakzâde Mehmed Hemdemî Çelebi, *Solak-zâde Tarihi 2*, ed. Vahid Çabuk (Ankara: Kültür Bakanlığı Yayınları, 1989), 628-30. Also see: Madeline C Zilfi, "The Kadizadelis: Discordant Revivalism in Seventeenth-Century Istanbul," *Journal of Near Eastern Studies* 45, no. 4 (1986): 257.

that we can justifiably think that the state prohibition against coffeehouses can be regarded as prohibition against consumption of other drugs and thereby, cannabis as well.

Nevertheless, these precautions and sanctions by the state seems to have experienced difficulties to reach its target. Peçevi states that prohibition during the reign of Murad III did not prevent the spread of coffee and coffeehouses. Likewise, he complains about tobacco and indicates that Murad IV strictly banned it.[41] In the imperial decrees from 1580s to 1640, the resistance against the ban is observable. A decree in 1618 informs that despite the prohibition against cultivation, trade and consumption of tobacco, many people in Karaman, Çankırı, Payas, Adana and Antakya do not obey the law. It is ordered to announce people in public that its cultivation, trade and consumption is banned.[42] A similar decree also sent to Edirne in 1631 to deter people from acting against the prohibition.[43] Another decree was on imperial scale. The decree was sent to the judgeships of Rumelia, or even with a wider description, from Ankara to the border of Moldavia, which also comprises Akkirman. Due to negligence and corruption of qadis and other officials to enforce the ban, new officials were appointed for supervision of it, and current officials were warned to implement the law.[44] This proves that the consumers and cultivators of coffees, drugs and tobacco were not to quit them easily.

The struggle was not only between the state and addicts. It seems that not only did the Ottoman government take action against these addictions and coffeehouses but the Ottoman elite from different echelons dealt with it. The non-Muslim elite and clergymen, for instance, also wrote treatises against smoking tobacco. Papa Synadinos, a priest in Serres, condemned the use of tobacco and wholeheartedly favored Murad IV who banned it, possibly towards the mid-seventeenth century.[45] Probably towards the end of the century, Admonition on Smoking of Nikolaos Mavrokordatos (d. 1730) also takes an adverse stance against tobacco just like Muslim jurists.[46] By taking a "common elite attitude on smoking" by the Ottoman Muslim and non-Muslim elites considering it "as offensive and dangerous to public order," we see that they supported ban on tobacco to become a legal norm.

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[41] İbrahim, *Târîh-i Peçevî Cild-i Evvel*, 363.

[42] A.DVNSMHM.d., 82/343, Devlet Arşivleri Başkanlığı Osmanlı Arşivi.

[43] A.DVNSMHM.d., 85/257.

[44] A.DVNSMHM.d., 85/380.

[45] Evgenia Kermeli, "The Tobacco Controversy In Early Modern Ottoman Christian And Muslim Discourse," *Hacettepe University Journal of Turkish Studies* 11, no. 21 (2014): 129-30.

[46] Kermeli, "The Tobacco Controversy In Early Modern Ottoman Christian And Muslim Discourse," 124.

How to we make of ongoing debate of the Ottoman scholars and Akkirmani's fatwa on cannabis in this context? First of all, just like the other regions of the Empire, people in Akkirman might have consumed cannabis commonly. The mufti of Akkirman thus might have issued a comprehensive fatwa, to deter people from consuming cannabis. Might the qadis of Akkirman have ignored the enforcement of the imperial decree on the drugs? Considering that there are such cases in other cities, and the decree at imperial scale included "the borders of Moldavia," this is also a possibility. In general, we can assume that the debate on cannabis and other drugs among jurists might have led or contributed to the ban against drugs and coffees. Akkirmani's fatwa which came to be famous among scholarly circles also supported and reinforced the ongoing official prohibition. Regarding the fact that law was not only produced by the government, we can securely claim at this point that Akkirmani, a provincial mufti in frontier, participated in the formation of legal norms.

7.5 Conclusion

To conclude, considering length and depth of the fatwa, Ali Akkirmani aimed to express his opinion in an epistle-like fatwa in this juristic and social issue. Thanks to his scholarly networks in Istanbul, penetration into the earlier discussions and mastery in jurisprudence, his fatwa became a well-known treatise among scholars. Furthermore, it is justified to think the prohibition on coffeehouses was also directly associated with cannabis, for cannabis was also consumed there and even some of them came to known as "cannabis coffeehouse (*esrâr kahvehânesi*)." The opinions of the Ottoman scholars on drugs were significant for they already bore juristic authority. Also, whole scholarly debate around cannabis provided a legitimate ground for the state to ban these drugs and its places of consumption. Ali Akkirmani, who came to be reputed with cannabis fatwa, also contributed the legislation, even if indirectly. In his fatwa, Akkirmani opposed Kemâlpaşazâde, reinforced Ebussuud's claims and chief muftis after him who advocated that the consumption of cannabis was forbidden. By this way, consequently, Akkirmani enjoyed the institutional authority and contributed the formation of legal norms in Akkirman and in the empire.

8. CONCLUSION

This dissertation has analyzed how Ottoman law was interpreted in a frontier town, Akkirman, in the late sixteenth and early seventeenth centuries. It has explored the roles of a provincial mufti appointed by the Ottoman center, his interpretation of Ottoman law, and his interactions with different local actors through the example of Ali Akkirmani (d. 1618), the mufti of Akkirman, and his fatwas. I claim that the mufti of Akkirman played an essential role in adapting Ottoman law to the frontier context, and that in doing so he augmented his own juristic, imperial, and local authority.

The evolving circumstances in the Ottoman Empire and Akkirman before and during Akkirmani's tenure shaped the nature of his muftiship and the way he constructed his legal authority. Akkirmani faced an administrative struggle in his province stemming from a range of factors, including rising tensions among city-dwellers, anxiety over the increasing threat of Cossack and Polish raiders towards the 1590s, and economic fluctuations in the late sixteenth century. He challenged local powerholders and used all the means at his disposal to establish himself among the city-dwellers as an authority on imperial law.

His tenure corresponded to a period when the Ottoman Empire sought to establish control over the provinces through a large staff of scholar-bureaucrats. As a part of this trend, Akkirmani was appointed by the imperial center to the frontier province, but his imperial imprimatur was not his only source of authority. In the late sixteenth and early seventeenth centuries, in the wake of Chief Mufti Ebussuud, sultanic law and Islamic jurisprudence were becoming more and more intertwined. Hence, Akkirmani's imperial authority was closely tied to his juristic authority, which he displayed through his inclusion of authoritative opinions within his madhhab and legal maxims in the references (*nakil*) he added to his decisions. Akkirmani's local origins elevated him to further prominence among other officials in the district, encouraging people to consult him over others. His familiarity with the conditions of Akkirman was of particular significance when he faced issues concerning life on the

frontier.

Akkirmani was a scholar-bureaucrat who took up the provincial muftiship of Akkirman, meaning that his imperial duties entailed more than issuing merely intellectual and non-binding opinions, contrary to some views in the literature in the past decades. Faced with the realities of the city and social problems stemming from constant raids, enslavement, and trouble with local officials, he used his fatwas to adapt Ottoman imperial law to the needs of the day.

Akkirmani's interpretation of and engagement with Ottoman law and his scholarly competence are best expressed in the rulings he issued on four topics that I have discussed in depth: the requirement of a legal guardian's permission for marriage, the permissibility of establishing extraordinary endowments to pay extraordinary tax levies, the necessity of paying the *pençîk* tax, and the ban on cannabis. In the chapter on the requirement of a legal guardian's permission for marriage, we saw how Akkirmani created a jurisprudential basis for the Ottoman regulation requiring a guardian's permission for a marriage to be valid. In the discussion of *pençîk*, we saw how Akkirmani, in a nod to state authority, stressed the importance of paying the *pençîk* tax, arguing that a failure to do so would nullify any claim one had to one's war booty. On the other hand, on the permissibility of establishing extraordinary endowments, taking advantage of the absence of a sultanic decree on the issue, Akkirmani could contravene an imperial-wide practice. And we saw in the chapter on his cannabis fatwa how he presented the early debates on the legality of cannabis use and positioned himself against the opinion of Kemâlpaşazâde, issuing a ruling that, in conjunction with his scholarly network, markedly increased his popularity.

The fatwas of Akkirmani reveal that he played a remarkable role in the formation of law in the province. In doing so, he likely also used his legal authority to support certain camps among the local powerholders, though we little evidence about the nature of any such factions or the sides Akkirmani took in any disputes between them. We also know little about his wealth and property holdings other than what he presents in his own last will and testament. A record of endowment or similar evidence in this vein could provide some insight on this matter, which might in turn shed further light on the roots of his authority.

Were the characteristics of Akkirmani's muftiship unique to him? In other words, was he the only provincial mufti to exercise so much authority in the late sixteenth and early seventeenth centuries? To what extent we can generalize Akkirmani's case to that of other muftis in the Ottoman provinces? Bosnian muftis started to be appointed for life in the early seventeenth century, just as Akkirmani was. Was this life-long tenure an imperial trend in the seventeenth century? Also, just as

the imperial center sent many commands to Akkirmani, it also sent commands to other provincial muftis in the late sixteenth and early seventeenth centuries, such as the muftis of Ağrıboz, Akşehir, Bolu, Manisa, Kastamonu, and Kayseri.[1] Was Akkirmani's relationship with state authority something they also shared? Were there patterns based on geographical difference? To put it more explicitly, how did the functions and authority of provincial muftiship vary across Rumelia, Anatolia, and the Arab provinces? We know that provincial muftis in Arab provinces were also of local origin, just like Akkirmani, but with a big difference: they were not educated in the Ottoman madrasas and therefore were not part of the Ottoman scholarly hierarchy. This would likely have led to differences in their relations with the imperial center and its local officials.

Another more thematic question might be asked in relation to the provincial muftis. Although Akkirmani's fatwas were largely compatible with imperial policies and laws, he did sometimes challenge certain "unorthodox" practices, as seen in his stance on establishing endowments to pay extraordinary tax levies. Many such practices rose to popularity in the seventeenth century, including new types of endowments that made long-term leasing possible, such as the endowment of double-rents (*icâreteyn*) and *mukâtaa*, or the replacement of the classical fief system with tax-farming and, toward the end of the century, its gradual "malikanization." As legal representatives of the empire in the provinces, muftis would most likely have played an important role in these transformations, but only further comparative research will allow us to know the nature of that role. And only through further such research will we learn just how exceptional Akkirmani was, and whether we might need to revise our current notions of provincial muftiship.

[1] For these commands see *mühimme defteri*s numbered 29, 73, 85, 81 and 888.

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