

FATMA ACUN and RAMAZAN ACUN (Hacettepe University, Ankara)

## DEMAND FOR JUSTICE AND RESPONSE OF THE SULTAN: DECISION MAKING IN THE OTTOMAN EMPIRE IN THE EARLY 16TH CENTURY

### *The Nature of the Ottoman Polity and Questions for Research*

Numerous typologies have been advanced by scholars seeking to capture the essential elements of the Ottoman political system and various efforts have been made to identify their relationship to decision making mechanism: In these efforts, either a definite theoretical model was chosen and findings of empirical studies were interpreted according to this model or, topics suggested by Karl Marx or Max Weber were examined in the light of historical sources<sup>1</sup>. Both approaches have generated a number of researches regarding the true nature of the Ottoman state. However, the research results to date seems somewhat inconclusive, partly because of the difficulties of appropriately differentiating among the systems that fall into the same general category and, partly because of the lack of adequate empirical studies about the nature of the Ottoman polity, particularly for the earlier periods i.e. the period before the 16<sup>th</sup> century.

Recent studies follow, to a great extent, the concept of patrimonialism advanced by Weber to define the characteristics of the Ottoman state. In these studies, the Ottoman state is referred to as *an extreme case of patrimonialism called sultanism*, characterized by a complete reliance on military force, despotism and arbitrary power.

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<sup>1</sup> These typologies, as applied to the Ottoman social history, were reviewed in the following article: Halil İnalcık, "On the Social Structure of the Ottoman Empire, Paradigms and Research", *From Empire to Republic, Essays on Ottoman and Turkish Social History*, Istanbul, Isis Press, 1995, 17-60.

*Sultanism* operates primarily on the basis of the discretion of the *sultan* that is distinct from every form of rational authority<sup>2</sup>.

The theory of the centralist bureaucratic empire is also used to define the nature of the Ottoman political system. According to this theory, the bureaucratic system with the autonomous action of a body of professionals under objective rules was indispensable for the survival of the vast empires. The theory puts more emphasis on the bureaucratic managerial nature of the Ottoman Empire than on its system of patrimonial rule<sup>3</sup>.

These kinds of conflicting comments on the characteristics of the Ottoman state and the *sultans* point to the need of reviewing the Weber's theory on patrimonialism, particularly the absoluteness of the power enjoyed by the *sultan* and, that of the theory of the centralist bureaucratic empire, particularly the autonomy of the bureaucracy<sup>4</sup>. To this end, this paper looks at the decision making process using primarily the evidence which were the outcome of that process itself. Here it is assumed that the actual exercise of power in the Empire can be best observed through the decision making process. The findings, if any, can then be used to draw conclusions about the true nature of the Ottoman political system.

"Rationality" as opposed to arbitrariness of the decisions will be used as a criterion to classify and compare the related evidence, a description of which is given in next section. Up till now, rationality of the Ottoman polity has been studied mostly theoretically<sup>5</sup>. There is a lack of empirical studies, showing the workings of the system in practise<sup>6</sup>. This study aims to fill this gap. But what does "rational decision" mean? Obviously there is no single answer to this question. Indeed, researchers define over twenty forms of rationality.

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<sup>2</sup> Max Weber defines two types of patrimonialism: In the first, domination is primarily traditional as existed in the medieval west while in the second, domination operates on the basis of discretion. Accordingly, the first type of domination is called *patrimonial authority* and the second type is called *Sultanism*. Halil İnalcık, "Comments on 'Sultanism': Max Weber's Typification of the Ottoman Polity", *Princeton Papers in Near Eastern Studies*, I, 1992, p. 47; Idem, "Decision Making in the Ottoman State", Caesar Farah (ed.), *Decision Making and Change in the Ottoman Empire Essays in Ottoman History*, Missouri, 1993, 9-18. For the theory of Sultanism see, Max Weber, *Economy and Society: An Outline of the Interpretive Sociology*, trans. G. Roth and C. Wittich, Berkley, 1978. See also, Ensar Nişancı, *Geleneksel Patrimonializm, Sosyal ve Siyasi Yönden Analizi*, İstanbul, 2001.

<sup>3</sup> Followers of the theory of bureaucratic empire are usually modern political sociologists e.g. Eisenstadt. On this, see İnalcık, "Decision Making", 119-120.

<sup>4</sup> The nature of the Ottoman state and the image of the *sultan* is explained within the context of the Middle Eastern ideology of state and justice by Halil İnalcık, "State and Ideology Under Sultan Süleyman I", *The Middle East and Balkans Under the Ottoman Rule, Essays on Economy and Society*, Blomington, 1993, 70-94.

<sup>5</sup> See, İnalcık, "Comments on Sultanism", 47-72; Idem, "Decision Making in the Ottoman State", 9-18.

<sup>6</sup> A recently published book on the provincial administration fills the gap to some extent. It applies the conceptual framework developed by David Easton to test the rationality of the Ottomans in administering provinces. See, Fatma Acun, *Karahisar-ı Şarki ve Koyluhisar Kazaları Örneğinde Osmanlı Taşra İdaresi (1485-1569)*, Ankara, Türk Tarih Kurumu Yayınları, 2006.



In this study a definition by Lee W. is adopted: according to this definition, firstly, a rational decision should be based on the information gathered through a clearly defined procedure. Secondly, it should assess various actions in order to provide efficient means for pursuing the objectives and finally it should have the best outcome, i.e. should maximise the expected utility<sup>7</sup>. When dealing with historical problems one is usually restricted to limited sources. This is certainly true for whether or not Ottoman decision making was rational. We will examine the subject by looking at whether decisions were based on the systematically collected information and whether they produced the intended outcome. To this end the following questions will be asked: What kind of values and policy alternatives actually influenced the decisions taken? Did any individual or body shared in the process? What did the decisions contributed to the welfare of the society and their just treatment? How the conflicts were resolved? What were the goals of the state in resolving conflicts? What were the restraining factors in the decision making process?

### *The Sources and the Methodology*

To answer these questions, this study uses mainly the registers of orders or Ahkam Registers. These are valuable sources offering information on the final decisions taken by the imperial council or divan-ı hümayun or divan for short. We do not unfortunately have any documentation regarding the processes before the meeting of the divan. Nor do we have any information as to the impact of these orders on the problems, i.e. whether the orders sent solved the problem or not. We do not also have documentation on the discussions took place in the imperial council before the final decisions were reached. We only have the end results that are the rescripts (hüküms) or entries in the Ahkam Register. The lack of documentation on discussions leading to decisions makes the Ottoman decision making mechanism a kind of a black box for the researchers. Any document providing insight into the nature of this box would obviously be invaluable. The registers of outgoing orders are of this type. The earliest extant register of these series is called Ahkam Defteri (register of edicts) dated 1501 (H. 906)<sup>8</sup>. It consists of copies of orders issued by the imperial divan in one month, between 8-17 June and 8-17 July 1501 (evahir-i Zilkade 906 ilâ evahir-i Zilhicce 906)<sup>9</sup>. This register provides evidence for the presence of similar registers for earlier periods, pointing to a custom of registering the final

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<sup>7</sup> See W. Lee, *Decision Theory and Human Behaviour*, New York, John & Wiley, 1971.

<sup>8</sup> This register is published in transliteration and in facsimile with an introduction by İlhan Şahin-Feridun Emecen, *Osmanlılarda Divan-Bürokrasi-Ahkam, II, Bayezid Dönemine Ait 906/1501 Tarihli Ahkam Defteri*, İstanbul, Türk Dünyası Araştırmaları Vakfı, 1994. The data offered by this edition of the register is used in this study. The original of the register is housed in the General Directorate of State Archives, Ottoman Archive in İstanbul (A. DVN, Nr. 790).

<sup>9</sup> For a description of the physical condition and contents of the register see, Şahin-Emecen, *Ahkam Defteri*, XVII-XXXV.



decisions formulated by the imperial divan before they were sent out. We know that the compilation of this type of registers became regular by the middle of the 16<sup>th</sup> century under the name of *Mühimme Defterleri* (registers of outgoing orders)<sup>10</sup>. The *Ahkam Register* used in this study consists of 479 records, mainly *hüküms* (rescript), *emirs* (order) or *fermans* (imperial decree) issued by the divan, ranging from military matters to land problems concerning the ordinary subject or *reaya*<sup>11</sup>.

A *hüküm* or a rescript was an ultimate decision taken by the *divan*, subject to confirmation by the *sultan*, in response to complaints of various individuals or problems. It can be said that a *hüküm* was a way of communication between the *sultan* and the ordinary subject seeking his attention to their plight. It is well known that the Ottoman political system allowed that any person, regardless of his social status, could petition the *divan* directly. However, this was not always possible given the vast distances one needed to travel to come to Istanbul. Also it is widely believed that, the Ottoman rulers were not accessible easily. Therefore, particularly, in the distant areas, people went to the local *kadı* (judge) who addressed a formal letter of complaint to the *sultan* or sent a spokesman to Istanbul, if the case was urgent<sup>12</sup>. How and by whom the petitions were presented is important because it shows the persons or the bodies who involved in the flow of information leading to final formulation of decisions that is *hüküms*.

*Hüküms* contain summary of the original petitions and information about the way they were submitted. In formulating *hüküms*, various records kept at the Imperial Registry (*defterhane*) were also consulted. Nearly all of the *hüküms* in the *Ahkam Register* open with a kind of heading which almost invariably start with the mention of office of the addressee (governor general of Anatolia/Rumelia, *kadı* of *Yenişehir*, governor of *Semendire* etc.) and end in the words *hüküm yazıla ki* (an order is to be written). The following part of the *hüküm* narrates the event, which is summary of the original petition. The phrases ... *deyü bildirdiler*, ... *imiş* (it has been informed that, the case is such that) mark the end of the narration. The narration and the next part of the *hüküm* are separated by standard phrase *buyurdum ki* (I [the

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<sup>10</sup> There are some 250 extant *mühimme* records housed in the General Directorate of State Archives, Ottoman Archive in Istanbul, covering the period between 1554 and second part of the 19<sup>th</sup> century. For a brief but informing note on the *mühimme* records see, Uriel Heyd, *Documents on Palestine 1552-1615*, Oxford, 1960, 3-6; Mübahat Küçükoglu, "Mühimme Defterlerindeki Muamele Kayıtları Üzerine", *Tarih Boyunca Paleografya ve Diplomatik Semineri*, 30 Nisan-2 Mayıs Bildiriler, İstanbul, 1988, 95-112. Some of the *mühimme* series (number 3, 5, 6, 7, 82, 83, and 85) were published by the General Directorate of State Archives in transliteration and in facsimile: E.g. *3 Numaralı Mühimme Defteri (966-968/1558-1560) Özet ve Transkripsiyon*, Ankara, Başbakanlık Devlet Arşivleri Genel Müdürlüğü Osmanlı Arşivi Daire Başkanlığı: Yayın No 12, *Dîvân-ı Hümâyûn Sicilleri Dizisi*: 1, 1993.

<sup>11</sup> On *hüküms* see, Halil İnalçık, "Şikayet Hakkı: Arz-ı Hal ve Arz-ı Mahzarlar", *Osmanlı Araştırmaları*, VII-VIII, 1988, 40-41.

<sup>12</sup> Suraiyya Faroqi, "Political Activity among Ottoman Taxpayers and the Problem of Sultanate Legitimation (1570-1650)", *Journal of the Economic and Social History of the Orient*, vol. XXXV, 1992, p. 2.



*sultan*] have ordered that) or its variants; *imdi buyurdum ki* (now, I have ordered that), *eyle olsa buyudum ki* (in this case, I have ordered that). This part cites the decision of the *sultan* on what is to be done in that matter. Each *hüküm* closed by the phrase *şöyle bilesiz alamet-i şerife itimad kılasız* (my noble sign should be trusted). All of the *hüküms* have dates according to which they were recorded in the *Ahkam Register*. The length of a *hüküm* varies from few lines to half a page.

All the *hüküms* contained the *Ahkam Register* were scanned into the computer and examined using a text analysis program called TextStat<sup>13</sup>. Certain words and phrases that are indicative of the research questions are selected and searched in the whole text. These words and phrases were quantified and the contexts in which they occurred were analysed. The relationships between the selected words are studied to make inferences about the nature of decision making during the early 16<sup>th</sup> century that is the period covered by the *Ahkam Register*. The search is also made for the co-occurrence of words related to the subject matter. As well as the words related to subject only indirectly.

To put the analysis into an appropriate context, brief information on the Ottoman central and provincial administration is in order.

### *The Ottoman Central Administration: The Sultan and the Divan*

At the top of the central administration was the imperial council or *divan*. It worked as a high court of justice and a kind of cabinet discussing and taking decisions on all government affairs and appointments. As is known, the *sultan* presided over the *divan* until the time of the Mehmed II (1475), afterwards the grand vizier took over the authority. The viziers, *kadiaskers*, *nişancı*, *defterdar* and associate members such as *reisülküttab*, *tezkireci*, *çavuşbaşı* and *kapıcılar kethüdası* and others joined the meetings of the *divan*<sup>14</sup>. After the meeting, the *sultan* received the members of the *divan* to approve and confirm the decisions taken by them<sup>15</sup>. The *sultan* and the members of the *divan* were therefore the decision makers who depended on the knowledge and expertise of the bureaucracy or *kalemiyye*. At the time of Bayezid II (1481-1512), *kalemiyye* was characterised by a small and relatively undifferentiated body of scribes carrying out the bureaucratic functions of the central government. It was only during the Suleyman the Lawgiver's reign (1520-

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<sup>13</sup> This program is available on the Internet: <http://www.niederlandistik.fu-berlin.de/textstat/software-en.html>.

<sup>14</sup> On *divan* and its working see, Recep Ahışalı, "Divan-ı Hümayun Teşkilatı", *Osmanlı*, 6, 24-33.

<sup>15</sup> Before taking important decisions such as making war or an appointment, the *sultan* would hold meeting with grand vizier or *şeyhülislam* (head of the *ulema*) together with the persons whom he trusted. Apart from this kind of secret consultations, the *sultan* could convene consultative councils called *meşveret* which was considered a duty before taking important decisions. On this see, İnalcık, *The Ottoman Empire The Classical Age 1300-1600*, trans. Norman Itzkowitz and Colin Imber, London, 1973, 92-93; Idem, "Decision Making", 116-117.



1566) that, the bureaucracy started to transform into a relatively autonomous group of professionals with well defined responsibilities and functions attempting to carry out the government activities within the pre established rules and regulations. This did not mean, however, that there was no bureaucracy in the earlier periods, rather it meant that, *kalemiyye*, expanded and gained an independent professional and social form parallel to that of *seyfiyye* (man of sword) and *ilmiyye* (men of knowledge) only by the middle of the 16<sup>th</sup> century<sup>16</sup>. Therefore, at the beginning of the 16<sup>th</sup> century, the period of the *Ahkam Register*, the bureaucracy was in the process of formation. The members of *kalemiyye* were indeed the people formulating all the decisions to be taken. Because of this function, they gradually became more and more influential in the decision making process particularly during the reign of the Suleyman the Lawgiver and afterwards<sup>17</sup>. During the period under investigation, beginning of the 16<sup>th</sup> century, *kalemiyye* was still under the process of formation. As the Ottomans evolved from a relatively small state into an empire with fully formed bureaucratic structure over a period less than 200 years between 1300 and 1500 AD, a philosophy of government was also formulated as a guiding principle. According to this philosophy, consolidating and extending the power and authority of the *sultan* required obtaining rich sources of revenue. This, in turn, depended on the conditions making the productive classes prosperous. In this cyclical philosophy, also called circle of justice (*daire-i adliye*), the *sultan*'s power and authority depended on the material as well as moral support he received from his subject. Related to this philosophy, the notion of justice (*adalet*) had particular meaning in the system of government. It was defined as the prevention and elimination of oppressive acts by those who exercised power in the name of the *sultan*. The long historical experience showed that, the oppressive government might cause an impairment of the productive capacity of the tax-paying masses and a decrease in the state's revenues. The alternative policy was to protect the *reaya* against the power by the state officials<sup>18</sup>.

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<sup>16</sup> Coronell H. Fleischer, "Preliminaries to the Study of the Ottoman Bureaucracy", *Journal of Turkish Studies*, vol. II, 1987, 135-140. See also İncalcık, "Decision Making", 114-115. The considerable growth of Ottoman bureaucracy during the reign of Süleyman the Lawgiver is confirmed by the growth of the number of officials in the central departments: at the beginning of the 16<sup>th</sup> century there were 37 officials in the central departments, which then increased to 90 officials in 1529. On this see, recently completed Ph.D dissertation by Mehmet Şakir Yılmaz, *Koca Nişancı of Kanuni: Celalzade Mustafa Çelebi, Bureaucracy and 'Kanun' in the Reign of Süleyman The Magnificent (1520-1566)*, Ankara, Bilkent University, Institute of Economics and Social Sciences, 2006, p. 13.

<sup>17</sup> For detailed information on central bureaucracy and its different branches, see Yılmaz, *Koca Nişancı of Kanuni*, 14-20.

<sup>18</sup> On the philosophy of Ottoman government see, Halil İncalcık, "The Ottoman Economic Mind and Aspects of Economy", *Studies in the Economic History of the Middle East from the Rise of Islam to the Present Day*, M. A. Cook (ed.), London, 1970, p. 217; Idem, "State and Ideology", p. 71. For the application of some principles of this philosophy in provincial administration see, Fatma Acun, "Ottoman Administrative Priorities: Two Case Studies of Karahisar-ı Şarki (Şebinkarahisar) and Giresun", *Archivum Ottomanicum*, vol. 17, 1999, 213-231.



Province or *sancak* was the main unit under a *sancak beyi* (provincial governor). The Ottoman realm was divided into administrative units called *sancak* as early as it was a frontier principality. With the rapid expansion of the Ottoman state in Balkans and in Anatolia, it became necessary to appoint a *beylerbeyi* (governor general) over all the provincial governors. First the *beylerbeylik* of Rumelia was created during the reign of Murad I, in 1362. Then, *beylerbeylik* of Anatolia including all western Anatolia was established in 1393 with its capital at Kütahya. The third *beylerbeylik* of Rum was established with its capital at Amasya in 1413. In the 15<sup>th</sup> and 16<sup>th</sup> centuries new beylerbeyliks came into being (totalling to 31), but these three *beylerbeyliks* constituted the backbone of the empire<sup>19</sup>.

The Ottomans considered division of power essential to a just administration in the provinces. Therefore, the *sultan* delegated his executive power to a *bey* from the military class and his legal power to a *kadı* from the *ulema* (knowledgeable men) class. These two authorities administered a province from the earlier periods on. The *bey* could not execute any punishment without first obtaining a document from a *kadı*, but the *kadı* could not execute any of his own sentences. Both of them were independent of the other and responsible directly to the *sultan*<sup>20</sup>. Apart from *bey* and *kadı*, other officials such as *timar* holders and military commanders (*subaşı*) etc. joined the provincial administration which could be called local administrators. In the typical Ottoman province, the *timar* system was in force. In this system a cavalryman resided in a village where he earned his living and collected taxes, mainly tithe, on crops. In return he maintained a horse and joined the war. In the 15<sup>th</sup> and 16<sup>th</sup> centuries, the *timar* holding cavalryman constituted the greater part of the Ottoman army as well as the local administrators in the provinces.

The Ottoman concept of state regulated the class system that the society fell into two distinct divisions, the military class (*askeri*) and ordinary subjects (*reaya*). Military class was exempted from taxes while the ordinary subjects paid the taxes. The taxpaying ordinary subjects were further subdivided into farmers, urban dwellers and nomads. The class division was maintained across religious boundaries. In the Balkans as in Anatolia, whether Muslim or Christian, those engaged in agriculture and trade were considered *reaya*. Christian cavalrymen in the Balkans, on the other hand, were incorporated into the military class.

### *Demands for justice*

As indicated above, *divan* was the highest court of justice to where all people regardless of their status could petition directly. The capital Istanbul was, therefore,

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<sup>19</sup> İnalcık, *Classical Age*, 104-106

<sup>20</sup> Halil, İnalcık, "Turkey", *Political Modernisation in Japan and Turkey*, Robert E. Dankwart-A. Rustow (eds), Princeton-New Jersey, 1964, p. 43.

a place where all people could turn to demand for justice. The geographical distribution of the hüküms shows us the extent of the area covered by the highest court of justice. It also shows the sources of information flowing from the periphery to the centre.

### *Distribution by place of origin*

The Ottoman *sultans* regarded their realm as “well protected lands” (*memalik-i mahrusa*) and any unlawful acts, such as violence, robbery etc were the greatest concern of the *sultans* and the bureaucracy. In the philosophy of government, the state protection of the realm is idealised as the *sultan*’s justice (*adalet*). In practice, the great masses of Muslim and non-Muslim people and vast areas in Anatolia and in Balkans could not have been ruled without state protection and control. In other words, the state had to carry out its basic functions such as ensuring security, protecting the powerless, collecting taxes and strengthen its control over the land and people within its borders. To do all these, the state needed information flowing from all over the empire to the centre in Istanbul. Was that really the case? To answer this question we need to look at the geographical origins of the hüküms.

The borders of the empire extended to Trabzon in the eastern frontier and in Semendire and Hersek-ili in the western frontier. Between these borders, the Ottoman Empire covered total of 883.449 km<sup>2</sup> lands around 1503. Of these, 427.091 km<sup>2</sup> took place in Anatolia and 456.449 km<sup>2</sup> took place in Rumelia<sup>21</sup>. As seen in the Table 1, the geographical area covered by the hüküms corresponds to these areas: There were a total of 155 different localities all over the empire where complaints originated. Of these, 97 places were in Anatolia and 58 places were in Balkans. Although the number of places in Anatolia were nearly the twice the number in Balkans, sizes of the lands in terms of square meters, of the both parts of Empire were approximately equal.

Because of the short distance and easy access to the capital, in the regions nearest to Istanbul justice and security were the greatest<sup>22</sup>. This is confirmed by the fact that, such places as Gekivize (Gebze), Çağa, İzniç, Bursa, Bolu, Balıkesir and Yenişehir in Anatolia and Edirne, Gelibolu, Vize and Migalkara (Malkara) in the Balkans, were the places from where people came to Istanbul to seek justice. This did not mean, however, that people of the distant areas were unable to come to Istanbul. On the contrary, there were also people from Trabzon in Anatolia on the easternmost frontier of the empire and Hersek-ili in Rumelia on the westernmost frontier of the empire who came to Istanbul. In fact the entire area between these frontiers was covered by the hüküms.

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<sup>21</sup> Donald Edgar Pitcher, *Osmanlı İmparatorluğu’nun Tarihsel Coğrafyası*, trans. Bahar Tırnakçı, İstanbul, Yapı Kredi Yayınları, 2001, p. 117.

<sup>22</sup> İnalçık, *Classical Age*, p. 91.



*Table* : The frequency of the complaints by place of origin made by individuals, local authorities and unknown origin.

<i>A N A D O L U</i>	<i>Individuals from reaya</i>	<i>Local authorities</i>	<i>Unknown origin</i>
Anadolu Beylerbeyi – Anadolu Kadıları	15	16	15
Kütahya	12		2
Meğri (Antalya)	10	3	
Bursa (Bursa)	8	1	13
Simav	7		
Yenişehir	7		1
Antalya	7		2
Ciharşenbe	4		
Daday	4		
Elmalu (Antalya)	4		
Karahisar	4		2
Kengiri	4		
Taş-ili			4
Bergama	3		1
Boyovası	3		
Çağa	3		
Eğirdir	3		
İstanbul			3
İzmir	3		
Mihaliç	3	1	1
Sultanönü	3		
Yalvaç	3		
Yanbolu	3		
Ankara	2		2
Biga	2		2
Bolu	2		1
Eğrigöz	2		
Gerede (Bolu)	2		
Göhlhisar	2		
İnegöl	2		
İznik	2		1
Kesriye	2		
Konurapa (Bolu)	2		
Merzifon			1
Mudurnu (Bolu)	2		
Murtazaâbâd (Ankara)	2		
Onikidivan (Bolu)	2		
Sivas		2	
Sandıklı	2		

Şile			2
Taşköprü	2		
Tire –Peçin	2	1	1
Uşak	2		
Akhisar	1	1	
Aksaray		1	
Akşehir			1
Akyazı			1
Alacahisar	1	1	
Alaiyye	1		
Alaşehir	1	1	1
Arım	1		
Ayasuluğ	1		
Aydos	1		
Balat	1		1
Barçınlu	1		
Balıkesri	1		1
Bendereğli (Karadeniz Ereğlisi)	1		1
Birgi	1		
Borlu	1		
Çeşme	1		1
Çibuk (Ankara)	1		
Çorlu		1	
Domaniç	1		
Edremid	1		
Ergiri kasrı	1		
Eyne	1		
Gekivize (Gebze)		1	
Gönen	1		
Göynük (Bolu)	1		
Hamid-ili	1		
Haslar	1		
Hayrabolu	1		
İnönü	1		
İskilip		1	1
Kal'acık	1		
Kalkanlu			1
Karesi-ili	1		
Kaş		2	
Kengirı		1	
Kıbrıs (Bolu)	1		
Kırkkilise	1		
Kula	1		
Manavgad	1		2
Mağnisa (Manisa)	1		



Manyat-Ermenek-Mut		1	
Menteşe			3
Seferihisar	1		
Sultanönü			1
Şuhud	1		
Şeyhlü		1	
Teke			2
Tekfurdağı	1		
Trabuzon	1		
Yabânâbâd (Ankara)	1		
Yalakovası			2
Yalvaç			1
Yedidivan (Bolu)	1		
Yenişehir	1		
Yörük	1		
<b>Total</b>	<b>187</b>	<b>36</b>	<b>74</b>
<i>RUMELİ</i>			
Rumeli Beylerbeyliği	2		11
Rumeli Kadıları			10
Edirne	1		6
Foça-Neretye	5	1	
Gelibolu	1		3
Avlonya		4	3
İnebahtı	4		
Tırhala	3	1	1
Filibe	2		
İstefe	2	1	1
Mora		2	3
Ohri – Petrik	2	3	4
Samakov	2		
Semendire	2	1	6
Silistre	2		2
Yanbolu		2	2
Adala	1		
Avgadi		1	
Balya	1		
Belgrad (Arnavut Belgradı)	1	1	
Burgos	1		
Çatalburgos	1		
Dimetoka	1		2
Eğriboz			1
Gerebine	1		
Gördöz		1	
Hasköy-Filibe		1	1
Hersek-ili	1	1	2

Hurpişte		1	
İpsala			2
İskenderiye		1	
İvranya	1		
Karlu-ili-Ayamavra		1	
Kesriye		1	
Lazkiye – Şeyhlü	1	1	
Manastır			1
Midilli		1	
Migalkara (Malkara)			2
Narda	1		
Niğbolu	1	1	
Niş	1		
Piriştine		1	1
Prevadi			1
Rudnik	1		
Serfice	1		
Selanik		1	
Siroz	1		
Şehirköy			1
Şuhud		1	
Tarhaniyyat			1
Tırnovi			1
Üsküp			1
Vardar Yenicesi		1	
Varna	1		
Vilçıtrın		1	1
Vidin	1	1	2
Vize			2
Yanya-Karlı-ili	1	2	2
Yoros	1		
Unknown locality			23
<b>Total</b>	<b>48</b>	<b>35</b>	<b>99</b>
<b>GRAND TOTAL</b>	<b>235</b>	<b>71</b>	<b>173</b>

### *Distribution by person of origin*

As described in the previous sections, classical Ottoman system made a distinction between the *reaya* and *askerî*. This distinction put the *reaya* in a rather politically inactive position whereas, the same distinction made *askerî* class possess a monopoly on legalised political action. As seen from the figures in Table 1, column 1 and 2, the total of the cases involved individuals is 235 while that of *askerî* is 71 cases. These figures alone show the politically active position of the Ottoman *reaya* and may be taken as evidence that, at the beginning of the 16<sup>th</sup> cen-



tury, the time of the *Ahkam Register*, the mentioned class distinction was not yet sharp and the roles assumed by *reaya* and *askerî* was not crystallised yet. Some of the roles of the *askerî* class were assumed by the *reaya* in this early classical period.

The 479 *hüküms* analysed in this study were initiated by either individuals or local authorities, or their initiators are unknown because of the lack of information in the *hüküms*. Nearly half of the *hüküms* 235 out of 479 were initiated by certain individuals among the ordinary subjects by petitioning directly to the *divan*. The cases where local authorities, a *kadı* or a *sancakbeyi* (governor of a province) sent a formal letter of complaint or/and spokesman to the *divan* constitutes 71 out of the 479 *hüküms*. The number of *hüküms* initiated by local authorities constitutes one third of those initiated by the ordinary subjects. The initiators of the remaining 173 *hüküms* are not recorded in them.

The initiators of the *hüküms* are important in that, they were the people who shared in the decision making process. As seen from the Table 1, they came from all over the Empire, And from all sectors of the society, from military class to ordinary subjects, from Muslims to non-Muslims. Among the ordinary subjects mostly the ordinary taxpayers in a *timar* (military fief) land and to a lesser extend various communities (*yörüks*), professionals, tradesmen, Christian and Muslim religious men (*keşişs* and *sufis*) were the initiators of the *hüküms*. (These were Muslims as well as non-Muslims (Christian, Jewish)). Members of the military class were also active participants in the process, such as governor general, provincial governor, *kadı*, *timar* holder, military commander, fortress soldiers, and sons of Bayezid II reigning in various parts of Anatolia as prince governors.

### *Individuals from reaya*

A closer look at the complaints made by individuals may give an idea why they chose to travel to Istanbul to present their case directly to *divan*, As seen from Table 1, first column, most of the rescripts (15) formulated in response to complaints were addressed to *Anadolu Beylerbeyi* (Provincial Governor of Anatolia) and *kadis* of Anatolia<sup>23</sup>. They were concerned with the status of *yayas* or their farms that is whether a person was *yaya*, son of a *yaya* or an ordinary subject or whether there was interference from outside to their farms. The tax claims made unlawfully by various local officials from the ordinary subjects or nomads came second, followed by problems involving *timars* and other land issues.

<sup>23</sup> One of these goes as follows: *Anadolu Beylerbeyisine hüküm yazıla ki; El-halet-i hazihi dârende-i hükm-i hümayün Bayezid dergâh-ı muallâma gelüp tasarruf itdüğim yayalık çiftliğinden gayri üzerime bir ocak dahi zamm idüb, bana anun dahi nöbetin itdürürler diyü bildürdi* [An order is to be written to the provincial governor of Anatolia that, the holder of my noble order named Bayezid came to the sublime porte and stated that apart from his own farm, a yard was added to his land, together with its responsibility]. Şahin-Emecen, *Ahkam defteri*, p. 40, No 141.



Kütahya and Meğri (in Antalya) are the places from where the highest number of complaints was made by the individuals in Anatolia. In the case of Kütahya, people came to Istanbul to solve mostly land problems and the problems concerning the use of summer pastures (*yayla*). There were also a few cases involving garden-tax and tax on bee-hives and lambs claimed by *sipahi* (fief holder). In Meğri problems involving nomads (*yörük*, *haymana*) and foot-soldier (*yaya*) were in majority while others were about rice cultivation, selling of wheat to *frenks* (Europeans), claims of excessive tax by officials and transference of a *timar* holding from a father to a son. In each case, Kütahya and Meğri, the problems involving middle or lower ranking officials, i.e. *sipahi*, steward (*kethüda*) or military commander (*subaşı*) constituted majority, which meant that most of the complaints made by individuals concerned the local authorities. In one of these, a certain Mahmud complained that the *sipahi kethüdası* (steward of cavalymen) called Resul was selling wheat (*zahire*) collected as tithe (*öşr*) to "the *frenks* in the sea". A rescript was then sent to the *kadi* of Meğri, to *sultan* Alemsah, the son of Bayezid II who was residing in the province of Antalya and to his tutor (*lala*) asking them to find out whether or not there was a trading activity without the permission of the *sultan*<sup>24</sup>. This case alone shows the sensitivity of the local people to the acts of the local authorities. The other examples are about unlawful tax claims. We know that, the law (*kanun*) and shari'a protected the subjects against the unlawful acts and abuses of the officials representing the authority of the *sultan* in the provinces. In one case opposite happened: A complaint was made by two *sipahis* called Hacı and İskender, about the people rearing bee-hives in their *timar* land without paying any tax to them<sup>25</sup>.

In Rumelia, Foça (in Bosnia) and İnebahtı were the two top places from where the people came to Istanbul to make complaints, 5 and 4 respectively (see Table 1 column 1). Their complaints were about *baştina* (Christian timariots in Rumelia), *voynuks* (Slav warrior) and farms in Foça, excessive tax claims and a church land in İnebahtı.

The distribution of the petitions involving a total of 187 cases, originated from 77 separate localities in Anatolia, ranges from 1 to 13. Distribution of the petitions a total of 48 cases originated from 32 places in Rumelia, on the other hand, ranges between 1 to 5. The average is higher, 2.4 a place, in Anatolia than that of in Rumelia, 1.5 a place. In other words, Istanbul was much more frequented by the people of Anatolia than that of Rumelia, both in numbers and in average. As to the geographical distribution of the places where complaints were made, Trabzon was the most distant place on the easternmost frontier of the empire, from where a person came to Istanbul to make a complaint about a *sipahi* who took his *mezraas* (arable land) and annexed to his *timar* land<sup>26</sup>. It was Hersek-ili in Rumelia on the western most frontier of the empire from where a father came to Istanbul to com-

<sup>24</sup> Şahin-Emecen, *Ahkam Defteri*, p. 88, No 315.

<sup>25</sup> *Ibid.*, p. 75, No 270.

<sup>26</sup> *Ibid.*, p. 73, No 262.



plain about an *imam* (leader in public prayer) who imprisoned his son by writing a false statement<sup>27</sup>. These are the kinds of problems, particularly the latter one, which could have been solved in its locality by applying to the local *kadı*. We do not have, unfortunately, further information as to the initiation of the petition that could answer our question of why they preferred to go to Istanbul instead of trying to solve the problem locally.

#### *Local authorities (individuals from Askeri)*

The *hüküms* initiated by a complaint by local authorities constitute 71 out of 479, just over one seventh of the all *hüküms*. These took the form of a letter or a spokesman sent by the local officials such as *sancakbeyi* (provincial governor), *dizdar* (fortress commander), *hisareri* (fortress soldier), *lala* (tutor), *subaşı* (commander in chief), *kadı* (judge), *bey* (governor of a district), the sons of the Bayezid II (Sultan Ahmed, sultan Alemşah, Sultan Selimşah, Sultan Şehinşah and Sultan Mehmed) and the two grand viziers (Mesih Paşa and İskender Paşa).

As indicated above, a spokesman was sent when the urgent attention of the authorities in Istanbul were needed. The cases presented in this way to the *divan* were concerned mainly with the problems of the lower rank officials or the problems in the area of their responsibility. In response to these problems, an order was written addressed to *sancakbeyi*, *kadı*, *beylerbeyi*, *dizdar*, *beys*, *sekanbaş* (head of provincial militia), sons of Bayezid II (Sultan Ahmed, Sultan Alemşah, Sultan Selimşah, Sultan Şehinşah and Sultan Mehmed) or grand viziers (Mesih Paşa and İskender Paşa).

As seen from the Table 1, column 2, 36 cases were presented to the imperial *divan* by the authorities of 18 different localities in Anatolia, whereas the numbers were 35 and 29 for Rumelia. Among the cases originated in Anatolia, 16 of them were initiated by the sons of Bayezid II who were residing in various parts of Anatolia as prince governors and, by İskender Paşa and Mesih Paşa who were both grand viziers. The remaining 20 cases were presented by the middle rank officials of different localities. In Rumelia all of the cases were initiated by the middle rank officials of different localities.

The names of the places from where individuals came to Istanbul to make their complaints directly to the sultan were given in the Table 1 column 1 above. As seen, the number of people in Anatolia is more than that of Rumelia, 187 and 48 respectively. Local authorities in Anatolia seem quite reluctant to voice the demands of the people to the centre, Istanbul. People of Rumelia, on the other hand, were quite reluctant to come to Istanbul to solve their problems. Second column in The Table 1 represents the complaints presented by a spokesman or a letter sent by various high officials all over the empire. Among these, those who came from

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<sup>27</sup> *Ibid.*, p. 47, No 167.

Rumelia constitute nearly the half, 35 out of 75, while the other half (36) came from Anatolia. Therefore, it seems that, instead of coming to Istanbul, people of Rumelia preferred to apply to the local authorities who then forwarded their complaints to Istanbul through a spokesman.

### *Unknown Origin*

The rescripts in this category do not cite the name of the initiator of the original petition. They start with the expressions such as it has been petitioned to Sublime Porte that (*dergah-ı mu'allâma arz olundu ki*), it has been heard that (*şöyle istimâ' olundu ki*), it has been informed that (*deyü bildirildi*), before this the case was that (*bundan evvel ... imiş*). These expressions are followed by a summary of the cases. The number of these types of rescripts is 173. They do not necessarily relate to the complaints of the individuals. Most of them are orders, usually sent to local authorities (*beylerbeyis* and *kadis* of various localities), stating the actions to be taken in certain cases. The rescripts in this category are so routine that they contain, little, if any, information from the original petition. As seen in the Table 1 column 3, 74 and 76 rescripts were sent to various officials in Anatolia and Rumelia respectively. The remaining 23 rescripts are not classified by places partly because some of them do not contain place names, and partly because even if they do, it is difficult to identify them. Those rescripts without place name information are grouped under the "unknown locality" in Table 1 column 3.

Table 1 column 3 shows that, in this category too, provincial governor of Anatolia was the person whom most of the rescripts were addressed to. Bursa came second. As it will be recalled from the Table 1 column 1, Bursa was in the fourth place from where individuals visited Istanbul in comparatively large numbers. The second and the third places were occupied by Kütahya and Meğri. The latter does not appear in Table 1 column 3, which shows frequency of complaints with unknown initiators. Kütahya, on the other hand, does appear but it is not high in rank.

The individuals from all over the Empire who travelled to Istanbul to submit complaints in person formed a kind of pressure group. They used certain phrases in presenting their grievances. An analysis of the frequency of these phrases therefore, may give us an idea about the ways of legitimating their demands. We know that, the rhetorical devices employed by the late 16<sup>th</sup> and early 17<sup>th</sup> century *adaletnames* (the law books), influenced the style of the complaints made by the people. The scribes drafting a petition substituted the complaint at issue for the abuse mentioned in the *adaletnames*. This appears to have helped the individuals oppressed by local authorities find a legitimate way of expressing their grievances<sup>28</sup>. The same may also be true for the beginning of the 16<sup>th</sup> century. The rhetorical

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<sup>28</sup> *Adaletnames* were, directly or indirectly, used in the complaints of the contemporary peoples. On this see, Faroqhi, "Political Activity Among Ottoman Taxpayers", 10-11.



devices found in the petitions could be taken as the evidence of the abuses individuals suffered in the hands of some of the local authorities and the measures taken by the state to prevent the suffering. Now, let us take a closer look at the cases.

### *Case presentation*

All of the 235 petitions were initiated by individuals, except the one that involved the whole populations of the three villages<sup>29</sup>. The high number of complaints made by the individuals directly to the reigning sultan, i.e. Bayezid II, from all over the empire as far as Sivas, Arım (in Samsun) and Trabzon in Anatolia and Ivryanya and Belgrad (Albanian Belgrad) in Rumelia<sup>30</sup> points to the fact that the investigation of the complaints and redress of the grievances were considered as one of the most important duties of the sultan and the imperial divan. Most of the complaints however were about the conflicts that could be solved in their localities. Why then, did the individuals prefer to apply to the divan directly, instead of going to the local kadı to address their grievances? We do not have unfortunately access to the original petitions, the text of which could probably help us answer this question<sup>31</sup>. Out of the 235 of the hüküms, that is the responses to the individual complaints, 189 of them include short excerpts (the presentation of the case by the petitioner) from the original petition<sup>32</sup>. These excerpts include the phrases used by individual petitioners to obtain the outcome they desired. In this regard, the most powerful means of legitimating a case was describing it as oppression: Be-gayet zulümdür/zulm ü te'addi in Ottoman. "He oppressed me by doing so and so" or, "I have been oppressed" were the usual formulations found in the rescripts<sup>33</sup>. Oppression was used in 47 petitions as a way of legitimating a complaint, which is the

<sup>29</sup> In this case, population of Karaca, Çomak and Buhayr villages came to Istanbul. The place where these villages were attached is not known because the part of the register it was written in is unreadable condition. See, Şahin-Emecen, *Ahkam Defteri*, p. 77, No 278.

<sup>30</sup> One of the hüküms of this type goes as follows: *Belgrad kadısına hüküm yazıla ki: El-halet-i hazihi Darende-i hükm-i hümayun Danyil nam zımmi dergah-ı muallama gelüp şöyle arz itdi ki* [An order is to be written to the kadi of Belgrade that, the holder of my royal order, the non-Muslim named Danyil came to the Sublime Porte and presented his case that]. Şahin-Emecen, *Ahkam Defteri*, p. 87, No 311.

<sup>31</sup> Pointing to the summary nature of the rescripts, Faroqi draws our attention to the bias inherent in them. i.e. whether the summary quotations were made faithfully or their contrast with the formal language of the rescript was merely a rhetorical device? Faroqi, "Political Activity Among Ottoman Taxpayers", p. 4.

<sup>32</sup> *Dârende-i hükm-i hümayün Ali dergâh-ı muallâma gelüp: Kadîmü'l-eyyâmdan tapuyla alup tasarruf itdiğüm yaylaya, Nasuh nâm kimesne senden mukaddem mukata'aya alıvırırem diyü tezvîr şâhidler getürüp hilâf-ı şer'ü kanun beni incidür diyü bildürdi* [The holder of my noble order named Ali came to the Sublime Porte and stated that 'the person called Nasuh puts claim on the pasture land that I have possessed by a title-deed, by claiming that he had been in possession before me. He even brought false witnesses and oppressed me against the shari'a and law']. Şahin-Emecen, *Ahkam Defteri*, p. 1, No 4.

<sup>33</sup> One of these rescript goes as follows: *El-hâletü hâzihî dârende-i hükm-i hümayün Mustafa dergâh-ı muallâma gelüp: Elli yıl vardır ki, bir yirde oturup zirâ'at idüp kanun üzere öşrin ve rüsümün*



highest among the legitimating phrases. Terrorising and hurting (be-gayet hayfidüp and incidüp) 13 and 8 cases respectively, were among the phrases which could be put in the same category. All together, they total to 68 petitions out of 184, which amount to about one third of all petitions. This means that, one in every four petitions, the petitioners used oppression, terrorising and hurting as a means of legitimising their cases.

The party, who oppressed, terrorised or hurt the petitioners were usually local officials who were in immediate contact with the subjects, such as provincial governor, fief holder or a military commander. The cases in which the oppressors were another ordinary subject are few in numbers. The reason for the oppression was usually over taxation or illegal use of land. In a sample case a certain Mustafa and Kasım complained about a *timar* holder claiming that he gave their land to someone else by a title deed and because of this they lost great deal of income, consequently they described the entire case as an oppression perpetrated against themselves<sup>34</sup>. We know that every form of oppression or abuse of the subject by the officials was prohibited by various promulgations as early as the first half of the 16<sup>th</sup> century, multiplied by the end of this century and reached to its peak during the *Celali* Rebellions (1590-1613)<sup>35</sup>. As described above the Ottoman philosophy of government protected subjects against abuse(s) from the representatives of the *sultan*'s authority, particularly against the illegal taxation<sup>36</sup>.

The second category of phrases describes the acts of the opponent such as wrongful doings, interference, dispute and seizure. These acts were in violation of the established rights and uses protected by the customary law and tradition. These include the behaviours such as refusal of legal tax claims, already established status of an ownership or usage. Dispute, seizure and interference were other phrases in

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*sâhib-i arza edâ itdikden sonra, sancak beyi olan kimesne benüm ra'yyetimsin diyü tutup yılda yüz akşam alur be-gayet zulm ider diyü bildürdi* [The holder of the royal order Mustafa came to the Sublime Porte and stated that 'I have been occupying the same land, cultivating it and paying its tax to the possessor of the land. However, the governor of the province claims that I belong to his subject. He oppresses me and charges me with a hounded aspers every year']. Şahin-Emecen, *Ahkam Defteri*, p. 17, No 58.

<sup>34</sup> One of these rescript goes as follows: *Mustafa ve Kasım dergah-ı muallama gelüb kadimden tasarruf itdiğümüz yirümüzü sipahi olan kimesne bir gayri kimesneye tapuya virüp, ol dahi gelüp yaylayup haylı terekemüz zayı olur be-gayet zulmdür diyü bildirdi* [Certain Mustafa and Kasım came to the Sublime Porte and stated that 'the land that we have been possessing for a long time was given by the timar holder to someone else by a title deed. He uses our land and harms our harvest, which is very much an oppression'], Şahin-Emecen, *Ahkam Defteri*, p. 40, No 142.

<sup>35</sup> According to İnalçık, the date of practice of promulgating rescripts in order to rectify abuses goes back at least to the reign of Selim I (1512-1520), "Adaletnameler", *Belgeler*, II, 3-4, 1965, 49-51.

<sup>36</sup> İnalçık, *Classical Age*, p. 66.

<sup>37</sup> *Yakub subaşı dergâh-ı mu'allâma gelüp: Tasarruf itdiğüm Tavuslu zeâmetine Yanbolu subaşı niza' idüp yavasına ve beytül-mâlına ve kaçgununa ve cürm ü cinayetine bî-vech-i şer' ü kanun dahl ider diyü bildirdi* [Military commander called Yakub came to the Sublime Porte and stated that, 'the military commander of Yanbolu disputes on the zeamet that I am in possession and claims all of its taxes against shari'a and law']. Şahin-Emecen, *Ahkam Defteri*, p. 83, No 297.



this category frequently used by the petitioners to strengthen their cases. Formulations of dispute over the use of rights are as follows: he disputed that they dispute and do not give me my right (*niza idüp ... niza idüp bana hakkım virmezler*)<sup>37</sup>. The seizure is voiced in the petitions in the following formula: Taken from my hand; they want to take from my hand; they took from my hand and gave to another person (*elimden alındı, elimden almak isterler, elimden alınup bir kimesneye virdiler*). The wording of the interference with someone's right on tax or ownership was: they interfere with, and they interfere and attack (*dahl ider, dahl ü taarruz idüp*). These all together amount to 67 and constitute the second frequently used category of phrases in the petitions. The main point of the petitioners using the phrases in this category was that they claimed the rights given to them by a grant from the *sultan* or by law. When these rights were taken from them unlawfully, they made complaints by referring to their established rights.

The third category of legitimizing device in the petitions is describing a case as being contrary to shari'a and law (*kanun*) or contrary to register (*hilaf-ı şer' ü kanun, hilaf-ı defter*). *Kanun* was the *sultanic* law and shari'a was the religious law. The *kanuns* were fundamental rules or restrictive traditions in the Ottoman Empire formulated by the bureaucrats. They were a collection of objective rules which were considered as referring to rational administration<sup>38</sup>. Shari'a started to become fundamental principle of the empire only after the passing of the caliphate to the Ottomans (1517) during the reign of Selim I (1512-1520). The number of petitions in this category is 18 out of 189. This is less than one would expect. Still, it shows a considerable influence of shari'a even before the date of the register under investigation.

Referring to a distant past in relation to the use of a right, usually of a land such as a garden, a farm or a summer pasture, is the fourth legitimizing device in terms of frequency used by petitioners with 16 reference. The time interval varies from twenty to a hundred years, from ancestors' time (*atadan dededen*) to ancient times (*kadimü'l-eyyam*). There are a few cases concerning the rights on *yamaks* (assistant of a soldier in foot) in a *müsellem* farm. Faroqhi's study on the Register of Important Affairs (*Mühimme Defteri*) shows that the use of the past was one of the most powerful means of legitimising a case in the 16<sup>th</sup> and 17<sup>th</sup> century<sup>39</sup>. But, this does not seem to hold true for the beginning of the 16<sup>th</sup> century.

The wording of the expressions concerning the personal defence cited in 9 rescripts are as follows: they want to expel me (*beni gidermek isterler*), I know nothing (*benim haberim yoktur*), because he has animosity with me (*benimle küdureti*

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<sup>38</sup> The term *kanun* originally denoted to 'registers and lists recording taxes'. It developed into meaning 'financial regulations', then came to mean 'legal prescriptions' independent of shari'a, laid down by the sultan by virtue of his authority as ruler. Halil İnalçık, "Kanun", *EP*, p. 558. On the evolution of the term of *kanun* and its function from the period of Mehmed II to the period of Süleyman the Lawgiver see, Yılmaz, *Koca Nişancı of Kanuni*, 193-200.

<sup>39</sup> Faroqhi, "Political Activity among Ottoman Taxpayers", p. 5.



*olduğu ecilden*), I do not have to pay tithe and tax (*bana öşr and rüsum hasıl olmaz*), they send me to the duty in their place (*beni nöbete sürerler anları nöbete sürmezler*), speaking ill of me (*gaybet iderler*) or he is a bad and mischief-maker (*şerir ve müzevir kimesnedir*), he robbed my house and took my son by force, and took my clothes (*evimi basup oğlumu cebirle alup, hayli esbabımı aldı*).

The last category concerns the use of the acts of the opponent by the petitioner to justify his case: These acts are giving harm (*zarar itdüler, bize gayet zarar oldu, bozup yıkıp zarar eylemişler*), obstinacy (*inad iderler*), negligence (*ihmal ü müsâlehe iderler*) and obduracy (*temerrüd iderler*). The number of rescripts in this category is 6.

As seen, the phrases used in the rescripts point to the abuses of the subjects in various ways, usually by the local officials. The question here is: how did the decision makers react to the demands of the petitioners? These questions will be answered below by analyzing the responses of the *sultan* to the demands of the individuals. The findings will be compared with the responses of the *sultan* to the demands presented by the local authorities.

### *Responses by the Sultan*

Responses of the sultan to the demands presented by certain named or unnamed individuals, and local authorities will be analysed separately to see whether there was any difference among them. Before that, it should be noted that all of the petitions presented by the individuals were about a recent problem involving themselves and local authorities or other individual(s). The rescripts involving application by known individuals do not contain a final decision in. It is however possible to find some clues in that direction. The remaining petitions presented by the local authorities or unknown individuals, were already in the bureaucratic process which means that they were partly processed documents, some of which waiting for the final decision to be taken. Therefore, we hope to find final decisions in some of them.

The formulation in the rescripts initiated by individuals usually goes as follows: *Darende-i hükm-i hümayun Veli dergah-ı muallama gelüp şöyle arz itti ki; or, darende-i hükm-i hümayun Hamza dergah-ı muallama gelüp ... diyü bildirdi* (the carrier of my noble order Veli came to the Sublime Porte and presented a petition that or the carrier of the my noble order came to Sublime Porte stated that...).

As to the responses of the *sultan* to the demands of the individuals: as noted above, these were not the final decisions to resolve a conflict, rather, they were orders to that end. Most of the rescripts in this category include stereotyped statements, ordering a case to be dealt with. These statements were formulated in various forms: in some cases, a thorough investigation and inspection (*onat vechile teftiş ü tefahhus idesiz*) were ordered; in some others the investigation asked to be as required (*gereği gibi*); still in others officials needed to see (*göresiz*). In a few case, shari'a (*şer'i şerif*) was to be consulted.



When the case involved conflicts between people, it was ordered that the two parties be brought together and a thorough investigation and inspection be carried out (*husemâyı beraber idüp onat veçhile teftiş ü tefahhus idesiz*). The addressees of these types of orders were usually the local *kadıs* to undertake the investigation and inspection by bringing together the parties involved the petitioner/claimant and the defendant, to search for the truth. About half of the rescripts initiated by named individuals are of this type; while in the other half investigators were required to see whether the case was as reported by the petitioner. The method of investigations was sometimes indicated in the rescripts: consultation of the related registers (*defter*) in the central treasury and/or doing fieldwork such as measuring the size of the land if it was an issue involving land. The reason for such a careful investigation was, as indicated in a rescript, to understand the root/real cause of the conflict (*kaziyyenin gavrına irüp*)<sup>40</sup>. After completion of an investigation either a report was to be sent to Istanbul for a final decision or, if the case was as claimed by the petitioner, the orders stated in the rescript were to be obeyed. In formulating orders, the *sultan* observed the established rules, that is, law and *shari'a* and available records<sup>41</sup>. The behaviours against the law, *shari'a* and records were strictly prohibited (*hilâf-ı şer' ü kanun/bî-vech-i şer' ü kanun dahl iderlerse men' idesiz; min-ba'd defter mücebiyle amel idüp hilâfına cevaz vormeyesiz*). *Kadıs* were required to follow the *sultan's* orders and to report if there was any resistance against them<sup>42</sup>.

The rescripts written in response to the demands of the local authorities also contained cases where the *sultan* ordered a thorough investigation into the real situation in the locality and asked to be reported to Istanbul (*hakikat-i hâl neyse temâm tahkik idüp mufasssal yazup dergâhı mu'allâma i'lâm idesiz / zikr olunan*

<sup>40</sup> Eyle olsa buyurdum ki, onat veçhile teftiş ü tefahhus idüp göresiz, mezkûr kadîm küreci midür ve on beş yıldan berü kürecilik hizmetin edâ ide gelmiş midür ve elinde ra'îyyet yiri var midür ve yok mudur ve ne haysiyyetle ra'îyyet kayd olunmuşdur ve ra'îyyet silkine münselik olmasına ba'is nedür ve kim kayd itmiş, niçedür, kaziyyenün gavrına irüp tahkiki üzere malûm idinüp dahi yazup dergâh-ı muallâma ilâm idesiz [I have ordered that you should search and see whether the person in question is a miner and has been in the mining for the last fifteen years, whether he has a piece of land belonged to the subject, why he has been recorded as ordinary subject and what was the reason for him to be included among the ordinary subject, you should understand the root of the conflict and inform the Sublime Porte in writing]. Şahin-Emecen, *Ahkam Defteri*, p. 44, No 156.

<sup>41</sup> *Hizâne-i âmiremde olan deftere nazar olunup görüldi: Üç yüz koyundan yirmi akça değer bir koyun ziyâdesinden ve eksüğünden ana göre alına diyü mastûr bulundu. Eyle olsa buyurdum ki, min-ba'd defter mücebiyle amel idüp hilâfına cevaz vormeyesiz* [The register kept in the central treasury has been consulted and have seen that 'a sheep valued at twenty aspers is to be taken from the herd of about three hundreded sheeps' is written. Therefore, I have ordered that from now on you should act according to the register and do not allow contrary to the register]. Şahin-Emecen, *Ahkam Defteri*, p. 65, No 229.

<sup>42</sup> A typical *hüküm* goes as follows: *İnegöl kadısına hüküm yazıla ki, dârende-i hüküm-i hümayûn Ali dergâh-ı muallâma gelüp: Kadîmü'l-eyyâmdan tapuyla alup tasarruf itdügüm yaylaya, Nasuh nâm kimesne senden mukaddem mukata'aya alıvirürem diyü tezvir şahidler getirüp hilâf-ı şer'ü kanun beni incidür diyü bildürdi. Eyle olsa buyurdum ki, onat veçhile teftiş ü tefahhus idesiz göresiz, kaziyye bu veçhile olup bunun kadîmü'l-eyyâmdan tapuya alup resmin edâ ide geldiği yaylayı mezbûr Nasuh hilâf-ı şer'ü kanun niza idüp incidürse men' idesiz, temerrüd ideni yazup bildirüresiz* [An order



*kaziyyeler vâki' midür, gayri vâki' midür, fi'l cümle nice olmuş ise mufasssal yazup arz idesiz*). When the addressee of a rescript was a *kadı*, he was asked to investigate the case personally, when the addressee of a rescript was a high local authority, such as a governor-general or a provincial governor, he was usually asked to send someone who knew the case (*sahib-i vukuf kimesneler gönderüp*) to undertake the investigation. It was recorded in some of the rescripts that, investigation was the necessity of the shari'a (*ber-muceb-i şer'i şerif teftiş ü tefahhus idesiz*)<sup>43</sup>. It is worth noting that, in the rescripts written as responses to the demands of the local authorities, law and shari'a were cited more frequently than that of the rescripts written as responses to the petitions presented by the individuals. This may be due to the *sultan's* desire to prevent the lawlessness of the local authorities, which indeed become more common towards the end of the century.

Some of the rescripts in this category contain decisions taken as a response to a demand or a conflict involving local authorities. The demands were usually about granting of a timar, a guardianship in a fortress or an appointment of local people to a pass (*derbend*) as guardians etc. In deciding about a new grant or a re-grant, the *sultan* wanted to know if it was a necessity (*ihtiyaç*), and the persons asking the grant providing a good service (*mademki hizmette kusurları olmaya*) to himself and to his rule (*devlet-i ebed peyvendüme münafi amel vaki olmaya*).

Conflicts presented by the local authorities involved usually the persons under their authority. In solving these conflicts, it was ordered to see, firstly that any written document regarding the rights and responsibilities of the person in question, such as *defter* (register) or *hüccet* (title deed) (*elinde olan şer'i hüccete nazar idüp göresiz*). If the documentation was found to be adequate, actions were taken accordingly.

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should be written to the judge of Inegöl that the holder of my noble order namely Ali came to the Sublime Porte and stated that 'the person called Nasuh puts claim on the pasture land that I have possessed by a title-deed, by claiming that he had been in possession of it before me. He even brought false witnesses and oppressed me against the shari'a and law'. Therefore, I have ordered that you should investigate the case thoroughly. If the case is as stated here that the holder of the order possessed the pasture land with a title-deed since old times and paid its taxes and if the person called Nasuh put claims on the pasture land and oppressed him against the shari'a and law, you should prohibit him and if anyone rejects this you should inform me in writing]. Şahin-Emecen, *Ahkam Defteri*, p. 1, No 4.

<sup>43</sup> One of the rescripts refering to shari'a goes as follows: *Tire ve Peçin kadılarına hüküm yazılı ki, buyurdum ki, ikinüz bir yire gelüp bu kaziyyeyi ber-mü-ceb-i şer'-i şerif, teftiş ü tefahhus idesiz göresiz, şol ki, muktezây-ı şer'dür, anunla amel idüp emr-i şer'den kat'â udül itmeyesiz ve baki kazâyası babında dahi şer'-i şerif nice ise anunla amel idüp her ne olur ise, şer'le hükm idüp yerine koyasız, hilâf-ı şer' nesne itmekden ihtiyat idesiz* [An order is to be written to the kadıs of Tire and Peçin, I have ordered that you two should come together and investigate the case thoroughly as required by the shari'a. It is the necessity of shari'a that you should act according to requirements of the shari'a and should not act against the shari'a. The rest of the case should also be handled in line with shari'a, you should take decisions according to shari'a and refrain from acting against shari'a]. Tahin-Emecen, *Ahkam Defteri*, p. 77, No 275.



As in the previous category of rescripts involving individuals, reference to a past case was made, but only once. It says that if a certain action was used to be prohibited in past, it be left as it is (*evvelden ne vechile yasağ oligeldiyse girü yasak idüp...*). References to the law and shari'a, the central registers and the tradition were more frequent<sup>44</sup>. In one case, the *sultan* ordered authorities to protect the interest of the people in a locality, shari'a, law, register and tradition (*ol yirin halkına, şer' ve kanuna ve deftere ve oligelen adata muhalif iş itdürmeyesiz*).

The rescripts written in response to the petitions whose initiators were not recorded/unknown concerns granting a position, ending conflicts on the collection of taxes, appointing someone to a service, the communications between the centre and the provinces and so on. As in the previous category of rescripts, the *sultan* required the officials to consult customary law and shari'a, the relevant centrally kept records and or any documents issued to individuals before any action to be taken<sup>45</sup>. References to the past were made in a few case in various forms recognising the previous decisions (*ber karar-ı sabık*), or applications (*evelden olageldiği üzere*) or the rights or exemptions (from taxes)<sup>46</sup>.

In appointing to a position, merit and entitlement and suitability were the two criteria (*layık ve müstehak, haline uygun*) cited frequently in the rescripts. For example, providing food grants to certain individuals in the kitchens was made on the basis that they were poor and in need of mercy (*fakirü 'l-hal ve mahall-i merhamet olmağın*). The person deciding on someone's suitability to a position was usually a *kadı* or a provincial governor. Upon their petitions and search for the person to be appointed was made by the *sultan*.

The prescripts followed up certain formulations that were mostly stereotyped in character. Some of these formulas could be traced back to the earlier centuries and would to be frequently referred in the rest of the 16<sup>th</sup> century onwards. Even though these stereotype formulas contain certain phrases, they were put together in varying ways. E.g. in the rescripts written as a response to the petitions presented by the individuals, investigation and inspection were stressed while in others law and shari'a are given prominence. These rhetorical variations were not simply due to style. Rather they reflected the criteria used by the decision makers.

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<sup>44</sup> Şahin-Emecen, *Ahkam Defteri*, p. 54, No 190.

<sup>45</sup> On this, see the rescript written to İskender Paşa and to the *kadı* of Sarayovası, Şahin-Emecen, *Ahkam Defteri*, p. 73, No 261.

<sup>46</sup> One of these rescripts reads as follows: *Rüstem nam sipahinin tımarıymış, amma reayası hukukunu sancakbeyi almak istemiş ... teftiş idüp göresiz ... sancakbeyi tarafından dahl ü ta'arruz etmek isterlerse, men' idesiz* [The land was the fief of the cavalryman called Rüstem, however, the provincial governor wants to collect its taxes from the subject ... you should search and see the case ... if any one from the side of the provincial governor wants to interfere with the taxes you should prohibit him]. Şahin-Emecen, *Ahkam Defteri*, p. 4, No 15.

## Conclusions

The above analysis of the rescripts shows that the *sultan* was the ultimate decider. Yet his authority was restricted by the law and *şeri'a* and perhaps more importantly by the existing records and/or the data to be collected on site. The *sultan* was willing to solve any conflicts among the subject and was not a party in the conflicts between the local officials and the subject.

Can we call this way of decision making as rational? This depends on to what degree the cases analysed here represents the whole population of the Empire and whether the cases described in the rescripts matches to what happened actually on the ground. These questions can not be answered easily. That is, there is no definitive answer to the question. But this empirical research on the *Ahkam Register* suggests that the Ottoman decision making mechanism had evolved to and functioned in a relatively rational system of fixed rules and regulations already at the beginning of the 16<sup>th</sup> century. In the course of rationalisation of the decisions, the state moved towards a rational administration and, rationale and legitimating the decisions based not on the *sultan's* personal will but on the established rules and regulations. These rules and regulations in turn, acted as limiting factors on the absolute power of the *sultan*.

The findings of this study suggest revisions to the theory of *sultanism* on various points. Firstly, decisions taken by the *sultan* concerning complaints of subject were not arbitrary as the theory suggests. They were, as shown, relatively rational. Secondly, the *sultan's* arbitrary power was limited on various points by already established rules and regulations, i.e. the law, the tradition, *shari'a*, the bureaucracy etc. Thirdly, the mentioned two points together refer to the fact that, although the *sultan* had the absolute power, this was only in theory. In practise, particularly, in the matters concerning the subjects, however, the arbitrary power was shared by various bodies that constituted Ottoman polity. More investigation into the documents of these bodies will certainly provide us with better understanding of the true nature of the Ottoman polity and its workings. The framework suggested in this article may provide a framework for further studies.