CAUGHT IN BETWEEN FAITH AND CASH: THE OTTOMAN LAND SYSTEM OF CRETE, 1645-1670*

In memory of Pinelopi Stathi

Eugenia KERMELI**

THE IMPLEMENTATION OF A NEW LAND code in Crete after the final conquest of the island by the Ottomans in 1669 created a peculiar paradox. While contemporary sources – to the best of my knowledge[1] – seem to be aloof about the re-interpretation of the legal status of lands in Crete, it is an issue of heated debate for current scholarship. In 1943, Barkan was the first scholar to comment on the peculiar system introduced by the Ottomans in Crete.[2] Barkan perceived the new rules as a departure from the painstaking interpretation of the celebrated *şeyhülislam* Ebussuud a mere century earlier. The usage of outwardly Islamic terms like the definition of the lands as *haracî* and the freehold of their occupants (*mülk*), the admonition against the collection of uncanonical taxes, and the use of Qur'anic verses to support the new rules are some of the examples used to support his argument.[3] Barkan pointed to the co-existence after 1669 of different land systems in the

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* This paper has been in the making for the past decade or so. I have discussed different aspects of land taxation imposed on Crete at three conferences: *The Ottoman Frontier*, 17-20 March 1999, The Skilliter Centre for Ottoman Studies, Cambridge; *Beyond the Border: A New Framework for Understanding the Dynamism of Muslim Societies*, 8-10 October 1999, Kyoto; *La Sublime Porta e l'egemonia del Mediterraneo tra Stati e Imperi: 10th International Congress of Economic and Social History of Turkey*, 28 September-1 October 2004, Venice. I am grateful for all the comments made by participants in these conferences. However, my gratitude goes to Professor Elizabeth Zachariadou who 'gave me my baptismal in the trade' and over the years has always assisted me in more ways than one. Professors Zachariadou and Vassilis Demetriades are pioneers of Ottoman studies in Greece; I would like to thank them both for their influence on my personal formation and for all their efforts to establish serious scholarship in the field.

** Bilkent University, Department of History.

1 See Evliya Çelebi, *Seyahatname*, 10 vols (Istanbul 1896-1938); Mustafa Naima, *Ravzat al-Hüseyn fi Hulasat Ahbar al-Hafikeyn*, 6 vols (Istanbul 1864-1866); Silahdar Mehmed Ağa, *Zeyl-i Fezleke*, ed. A. Refik, 2 vols (Istanbul 1928).

2 Ö.-L. Barkan, *XV ve XVI ıncı Asırlarda Osmanlı İmparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları*. Volume I: *Kanunlar* (Istanbul 1943 [1945]), XIX n. 5, XLI, LXIX.

3 Ibid., XLII.

Empire to stress that land and its taxation were determined by the Ottoman administration's choice of adhering to previous custom. Despite the aptness of this statement with regard to *kanunname*s until the end of the sixteenth century, the change brought about by Ebussuud would have to be taken into consideration. Akgündüz's disagreement with Barkan's assertion lies in this point. According to Akgündüz, the implementation of *mülk haracî* land status does not contradict Ebussuud's *miri* land interpretation, as Islamic law permits lands taken by accord to be given to the local population as *haracî* freehold. Even where lands were taken by force, the Sultan retained the right to grant the same status.[4] To be able to consider this as a valid explanation for the option of characterising all Cretan lands as *haracî*, however, we should consider the impact of Ebussuud and successive muftis on administrative decisions. The argument that law only served to legitimise sultanic decisions might be applicable to many instances. However, when scholars interpret such instances as the norm, they fail to comprehend the complex intellectual and cultural environment in which most of the 'actors' matured.[5]

The acceptance of the *mülk haracî* status of the land in Crete as peculiar has generated further interpretations with regard to the motives underlying this policy. Molly Greene in an article titled 'An Islamic Experiment? Ottoman Land Policy on Crete'[6] rejected Gilles Veinstein's view that the new land system was a categorical dismissal of the concept of *miri* land "in order, so they [the Ottomans] argued, to return to the true Islamic conception".[7] Her objection was not directed at the departure from Ebussuud's synthesis, which is taken as granted. She demurred at "a possible connection between the land regime imposed on Crete and the *kadızadeli* movement" as a possible explanation of the 'Islamic' character of the *kanunname*, to argue that "their concerns centred around relations between individuals, rather than the relationship between the subject, the Sultan, and the land".[8] She concentrated rather on what she termed vaguely "Islamic principles", Latin administrative practice, and general Ottoman trends.[9] In her book about Ottoman Crete, Greene expands on another possible explanation. She concentrates on the

4 A. Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, Vol. 8 (Istanbul 1994), 425.

5 This problem of practice versus rule becomes more apparent in the relationship between Sharia and *kanun*. The tension between the two, visible in the *kanunname*s of the sixteenth century, was an issue of concern for the Ottomans, too. The efforts of Ebussuud to harmonise the two is an example of it. Similarly, the interpretations of Cöngi Dede Efendi on sultanic discretional punishment (*ta'zir*) given almost simultaneously with those of Ebussuud is another aspect of the same endeavour; see E. Kermeli, 'Sa'i bi'l Fesad and Rebels in a Seventeenth-Century Ottoman Court', forthcoming, 7-9.

6 M. Greene, 'An Islamic Experiment? Ottoman Land Policy on Crete', *Mediterranean Historical Review*, 2/1 (1996), 61.

7 G. Veinstein, 'On the *Çiftlik* Debate', in Ç. Keyder and F. Tabak (eds), *Landholding and Commercial Agriculture in the Middle East* (Albany 1991), 40.

8 Greene, 'An Islamic Experiment?', 73.

9 Ibid., 78. In another part of the same article Greene accepts that Islamic trends in the seventeenth century received less attention (ibid., 66). Although I would agree with her argument that Ottoman land policies do not indicate a 'unidirectional' influence of Islam, I would not consent to her rejection of its 'cumulative' impact.

activities of the Köprülü family to argue that the new land policy was the victory of elite households who "fought the sultan – more or less successfully, although with some temporary reversals – for more long-term control over revenue sources, particularly the right to pass on their wealth to their heirs".[10] The Köprülü estates in Crete indeed seem extensive. However, to prove that this was one of the main reasons for the implementation of the new land regime more detailed research in the *sicil* collections is needed.

Veinstein, on the other hand, expanded on the Salafist influence of the Kadızadelis exercised by the personal *şeyh* of the Grand Vizier Köprülüzade Fazıl Ahmed Paşa, Vanî Mehmed Efendi, the leader of the movement in the 1660s.[11] This hypothesis is discussed in parallel to an interesting concept, that of the special character of islands in the Ottoman system; taxes and export dues of Thasos, Mytilini, Euboea, Limnos and Cyprus are examined vis-à-vis a new Islamic framework, and the need of defence against corsairs and the fiscal peculiarity of island production are taken into account. Finally, Evangelia Balta, in her Introduction to the edition of the Ottoman cadastral register of Rethymno, considers the example of the Cyprus *kanunname* drawn up in 1571.[12] She implies that since this *kanunname* was in fact drawn up soon after the final formulation of Ebussuud's land reform, one would expect to find traces of the reform in it. As Balta notes, the Ottoman policy of preserving the previous land system while preparing a new survey is observed. She stresses that in Cyprus, Venetian feudal corvées were retained in the Ottoman period and the rate of land taxation was increased to one-fifth, similar to the rate applied in Crete.[13]

Thus, following this rather vivid discourse on the reasons underlying the new land regime of Crete, there are a number of parameters to consider: the Venetian landowning, registration and taxation system; the impact of Ebussuud's redefinition of taxes; the comparison of the two *kanunname*s concerning Crete, that is, of 1650 and of 1670; the landowning system imposed after the promulgation of each of these two land laws; the mode of production before and after the new land code of 1670; the judicial impact of the changes on the cultivators; the reasons for the implementation of similar laws on other islands; and, finally, the impact of the Kadızadelis.

Ebussuud's Definition of Land and Its Taxation, and Its Impact

Ebussuud came to the office of *şeyhülislam* in October 1545 after serving for eight years as the *kadıasker* of Rumelia. In both posts, one of Ebussuud's main concerns was to rec-

10 Greene, *A Shared World*, 27.

11 G. Veinstein, 'Le législateur ottoman face à l'insularité. L'enseignement des *Kânûnnâme*', in N. Vatin and G. Veinstein (eds), *Insularités ottomanes* (Paris 2004), 101-106. For the Kadızadelis see M. Zilfi, *The Politics of Piety: The Ottoman Ulema in the Postclassical Age, 1600-1800* (Minneapolis 1988), 146-149; Eadem, 'The Kadızadelis: Discordant Revivalism in Seventeenth-Century Istanbul', *Journal of Near Eastern Studies*, 45/4 (1986), 251-269.

12 E. Balta and M. Oğuz, *To othomaniko ktematologio tou Rethymnou* [The Ottoman Cadastral Register of Rethymno] (Rethymno 2007), 24.

13 Ibid.

oncile theory and practice in land taxation. The *kanunname* of Buda was the means for Ebussuud to elucidate a juristic theory of land and tax. His arguments, based on the *fetva*s of prominent Hanafi jurists like Qadikhan, Ibn Bazzaz and Kemalpaşazade, reflect the depth of Ebussuud's erudition.[14] His judicial opinions were enacted as sultanic decrees and remained subsequently, through the medium of the *kanunname-i cedid-i sultanî* (1673), the standard text on land tenure until 1858.[15] Although Ebussuud's assertion was that he normalised the laws of land and its taxation, current scholarship rightfully considers these changes as an 'islamisation' process. Ebussuud, by identifying the *öşür* (tithe) as *harac-ı mukaseme* and the *çift* tax as *harac-ı muvazzaf*, not only set at peace "pious Muslim tax payers forced otherwise to pay uncanonical taxes", but also benefited the Sultan's revenues by increasing the percentages of taxation.[16] Another of his legal fictions endeavoured to put an end to the treatment of land as a commodity, subject to the normal laws of property exchange. Thus, when *miri* land was transformed into *arazi-i memleket*, that is, state land, the real substance of the land (*rakabe*) was *de jure* the property of the Treasury; the peasants had it merely as a loan (*ariyet*),[17] and *tapu* was the 'advance rent' for the occupancy rather than the use of the land, since the peasant had the use of it as a loan from the Sultan.[18] Therefore, in the *timar* system, the *sipahi*s were granted the right to collect taxes on their allotments while new occupants cultivated the land after paying the *sipahi* the advanced rent (*tapu*) or right of settlement (*hakk-ı karar*).[19] Transfer of *tapu* disregarded the Islamic laws of inheritance: the sons of cultivators had preference, whereas daughters could inherit the *tapu* upon condition of paying the fee that an outsider would have given.[20]

In the *kanunname* of Thessalonica and Skopje (1567-1568), Ebussuud discussed the way former *haracî* land became *miri*. He explained that "if the land [at the time of the conquest] had been given to its owners, it would have been divided on their deaths among many heirs, so that each one of them would receive only a tiny portion. Since it would be extremely arduous and difficult, and indeed impossible to distribute and allocate each person's tribute, the ownership of the land was kept for the Muslim Treasury, and [the usufruct] given to the peasants by way of a loan".[21] A tentative look at *kanunname*s promulgated soon after Ebussuud's redefinition of land and its taxation, such as those of Cyprus (1570-1571) and Georgia (1570), has shown that the rate of the tax increased to one-fifth. Thus, although the elaborate equation of the *öşür* as *harac-ı mukaseme* and the *çift* tax as *harac-ı muvazzaf* is not used, one of the main aims of Ebussuud's

14 C. Imber, *Ebu's-su'ud: The Islamic Legal Tradition* (Stanford 1997), 123-125.
15 H. İnalcık, 'Suleyman the Lawgiver and Ottoman Law', *ArchOtt*, 1 (1969), 105-138; Idem, 'Islamization of Ottoman Laws on Land and Land Tax', in Idem, *Essays in Ottoman History* (Istanbul 1998), 155-169; *EI*^{2}, s.v. 'Kānūn' and 'Kānūnnāme' (H. İnalcık); Imber, *Ebu's-su'ud*, 123.
16 İnalcık, 'Islamization of Ottoman Laws', 163-164; Imber, *Ebu's-su'ud*, 125-128.
17 İnalcık, 'Islamization of Ottoman Laws', 158-159; Imber, *Ebu's-su'ud*, 120-122.
18 İnalcık, 'Islamization of Ottoman Laws', 159; Imber, *Ebu's-su'ud*, 123.
19 İnalcık, 'Islamization of Ottoman Laws', 161; Imber, *Ebu's-su'ud*, 130.
20 Ibid., 129.
21 Ibid., 124.

changes, that is, the increase of the tax rate, is observed.[22] Similarly, the general Ottoman policy of preserving customary dues is also observed, as seen in the corvée duties of the Cypriot *parikoz*.[23]

The only *kanunname* which pronounces on the definitions of land and its canonical taxes is that of Sivas (1578).[24] This *kanunname*, promulgated four years after the death of Ebussuud (1574), describes the legal status of all the Ottoman lands. The Holy Cities and Basra are *arz-ı öşriye*; the lands are private properties and the tax is the Islamic *öşür* designated for the poor and indigent. The Iraqi lands are *arz-ı haraciye* and *mülk*; their owners, Muslims and *zimmi*s, pay *harac-ı mukaseme* and *harac-ı muvazzaf*. Some of the Iraqi lands are not *arz-ı öşriye* or *haraciye*, but *arz-ı memleket*;[25] the *rakabe* of the land belongs to the Treasury and the cultivators use this land by defective lease (*icare-i fasid*). The rest of the land in Anatolia and Rumelia, according to the Sivas *kanunname*, is also *arz-ı memleket*, known as *arz-ı miri*. The prescriptions of Ebussuud with regard to the tenure and transfer of land are repeated.[26] Finally, the reason for the elaborate reiteration of Ebussuud's stipulations is expounded when the land system of Amasya and Sivas is described. The *öşür* is of two types, *öşr-i divanî* payable to the *sipahi* and *öşr-i malikâne* due to the owners of *mülk* and *vakıf* land.[27] The definition of the *öşr-i malikâne* in Sivas and Amasya is the percentage of produce given by the cultivators to the freehold owners of land after tax. The *kanunname* considers that land reclaimed for cultivation has become freehold, while the cultivators acquired the land through rent (*icare tariki ile*).[28] Since landholding and taxation in Amasya and Sivas were quite different from the pattern in *miri* lands, it is not surprising that the *kanunname* diverged from the usual repetition of customary taxes collected at 'canonical' rates. For purposes of comparison, the description of the agrarian *icare* in the *kanunname* would be also relevant when we discuss the *kanunname* of Crete, as *icare* and *müzaraa* contracts are prescribed to avoid loss of income for the Treasury.

The orderly classification of landholding and taxation, however, did not resolve confusion for the public. The work of Üskübî Pir Mehmed Efendi (d. 1611) is representative of this confusion. In his treatise on the *kanun* titled *Zahirü'l-kudat* (The *Kadı*s' As-

22 H. İnalcık, 'State, Land and Peasant', in Idem with D. Quataert (eds), *An Economic and Social History of the Ottoman Empire* (Cambridge 1994), 113; Barkan, *Kanunlar*, 197-200 and 349-350.

23 Ibid., 349.

24 Akgündüz, *Osmanlı Kanunnâmeleri*, 8: 425-428.

25 The explanation follows Ebussuud's opinion to be found in the *kanunname* of Thessalonica and Skopje.

26 Akgündüz, *Osmanlı Kanunnâmeleri*, 8: 427.

27 Ibid., 8: 428. One of the prime concerns was to alleviate the possibility of mixing up the term *malikâne* with the dual ownership of taxes bearing the same name. The *kanunname* explains that it is *malikâne* on which the proportional land tax is paid at the rate of one-fifth shared by different groups.

28 Ibid. It is interesting to note that the term used to describe the owners is *malik* and *ayan*. Over time the peasants can pass the right to cultivate the rented plots to their heirs provided that – after they paid their taxes to the Treasury – they hand over to the owner an amount unspecified in the *kanunname* of *öşür* called *icare-i arz*.

sistant), there is a collection of *fetva*s of Ottoman muftis.[29] The *fetva*s generally relate to agrarian and fiscal questions; in their replies, the muftis refer to the *kanun*, *ferman*s and cadastral registers.[30] The confusion in the use of the term *öşür* with the canonical one paid in *arz-ı öşriye* is obvious in the following question:

> Question: Zeyd has the usufruct of a *miri* plot and cultivates barley. After he delivered the *öşür* to his rich *sipahi* Amr, should he give a portion of his produce to the poor?
>
> Answer: No. The *öşür* he gave is not *öşür*. That is to say, it [*öşür*] is the surplus of produce. *Miri* land is *haracî*. It is inconceivable that it would be *öşür*. The portion that is given is *harac-ı mukaseme* and the canonical right (*hakk-ı şer'î*) of the *sipahi*. Only the Holy Land is *öşrî* land and the *öşür* tax taken is given to the poor.[31]

Ebussuud as the author of this *fetva* is at pains to explain the difference between the canonical tithe and the *kanun* tithe. As the *fetva* is included in this collection, it seems that the confusion persisted.

Zahirü'l-kudat not only tries to remedy the confusion stemming from the canonical classification of land taxes and dues. A large part of the *risale* deals with defining *mülk* properties,[32] and the widespread transfer to third parties of the right to cultivate or collect land taxes. Undoubtedly, the upheaval of the *celali* revolts and the disruption of cultivation are reflected in the *fetva*s which will set the tone for the transformation of the mode of production and land-tax collection. Thus, before embarking upon discussing administrative decisions about the land system of Crete, we would have to take into consideration these gradual changes.

Loss of income is not justifiable and the right of the Sultan to set up the rates of taxation is confirmed in the following *fetva*:

> Question: Zeyd migrated from his village to the city to be educated (*ilim öğrenmek için*). While Zeyd is still in possession of his *çiftlik* from the city, is the *sahib-i arz* allowed to take [tax] at the rate of 1/8 from the *çiftlik*?

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29 Akgündüz, *Osmanlı Kanunnâmeleri*, Vol. 9 (Istanbul 1996), 394-486; 'Kanunname-i Cedid ve Muteber', *Millî Tetebbüler Mecmuası*, 1 (1913), 306. It contains *fetva*s of *şeyhülislam*s like Yahya, Bahai, and Hanafi to mention but a few.

30 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 404: "koyun kimin ise kuzu dâhı anındır deyü şâyi'; ancak bu makûlede veliyyü'l-emre mürâacat olunur". According to İnalcık (*EI*^{2}, s.v. 'Kānūn' and 'Kānūnnāme'), the compiler of the *kanunname-i cedid-i sultanî* drew many of the *fetva*s quoted from this treatise. From the time of Ahmed I, there is trend to include *fetva*s on topics previously dealt with by the *nişancı*s, in particular problems of land law and law concerning the *sipahi*s.

31 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 421. The *fetva* following this one inquires whether after giving the portion of *harac* to the *sipahi*, one would also have to give *zekât*; and the answer is no (ibid.).

32 Ibid., 9: 409; Question: Is the *sipahi* Zeyd allowed to collect a tax under the name of *ma'rifet akçesi* from sold (*bey olunan*) vineyards, orchards, olive groves and mills on the border of his village? Answer: No. They are *mülk* and not liable to [*sipahi*'s] permission. The *sipahi* cannot interfere in selling and buying. He can only collect tax and *öşür*.

Answer: In any case, the *harac-ı mukaseme* is collected. With an imperial decree, he can take the tax at the rate of 1/8.[33]

The following *fetva*s of Zekeriyazade Yahya Efendi quoted in the *risale*[34] relate to problems arising from the temporary – through lease – or permanent – through sale – transfer of cultivation rights. The sale of the usufruct is disguised – following Ebussuud's prescription – under the notion of delegation (*tefviz*), the only other suitable term that the juristic tradition had to offer.[35] In such a transaction, the *sipahi* is not allowed to interfere and cancel the sale or transfer of usufruct.[36]

Question: Zeyd commissioned (*sipariş*) his field to Amr. While he was away, Amr cultivated the plot and paid the *sahib-i arz* the *öşür* tax. If six years have elapsed, can the *sahib-i arz* take the land away and give it by *tapu* to another?

Answer: No. Zeyd's right is not removed.[37]

Question: Zeyd delegated (*tefviz eylediği*) the usufruct of his lands to Amr. Is the *sipahi* going to collect the money for his permission from Zeyd or from Amr?

Answer: From Amr.[38]

Members of the tax-exempt *askeri* class are also involved in the sale and buying of usufruct, thus creating a number of problems.[39] In the following *fetva* the *mütevelli* of a *vakıf* is not certain that he could collect the tithe if the lands were to be given to a soldier. Thus, the mufti, following the principle that steady flow of tax cash is preferable, permits the *mütevelli* to cancel the sale.

Question: The *zimmi* Zeyd delegated the usufruct of his *vakıf* lands to the soldier (*askeri*) Amr. The *mütevelli* did not give his permission, saying that it would be impossible to receive the *öşür* tax from Amr. Is the *mütevelli* allowed to give possession to Zeyd of the said lands once more?

Answer: This is what will happen. It is his [the *mütevelli*'s] right to refuse permission.[40]

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33 Ibid.

34 *İlmiye Salnamesi: Meşihat-ı Celile-i İslamiyenin Ceride-i Resmiyesine Mülhakdır* (Istanbul 1916), 441. He became *şeyhülislam* three times before his death in 1644. He is considered to be as important as Ebussuud by the author of the *İlmiye Salnamesi*.

35 Imber, *Ebu's-su'ud*, 131.

36 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 418; Question: Zeyd delegated to Amr the usufruct of his plot. Can the *sipahi* become obstinate and refuse permission on the basis of vicious prejudice? Answer: No.

37 Ibid., 416.

38 Ibid., 417.

39 The involvement of the *askeri* class in production is not new. See the 1544 *kanunname* for Mytilini in J. C. Alexander, *Toward a History of Post-Byzantine Greece: The Ottoman Kanunnames for the Greek Lands, circa 1500-circa 1600* (Athens 1985), 199.

40 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 451. This is a *fetva* of Mehmed Bahai Efendi (see n.

Question: Zeyd delegated to the janissary Amr the usufruct of a plot. However, the *sahib-i arz* himself did not give his permission to Amr. Is he allowed to say "I will give these lands to Zeyd's daughter Hind"?

Answer: He cannot say "I will give [them] to Hind, the daughter". However, if by giving the lands to the janissary, there would be real animosity, he is allowed. Yet, if the janissary is a peaceful man (*kendi halinde adam*), there would be no compulsion.[41]

This *fetva* illustrates another problem which will become prominent in the course of the seventeenth century, that is, the involvement of the *askeri* class in land exploitation. According to Ebussuud's rulings, a daughter is entitled to the usufruct of her father's lands if she pays the *tapu* that an outsider would have paid. The *fetva* somehow implies the use of force in the persuasion of the father to sell his usufruct rights to the janissary. The mufti is aware of this unspoken compulsion and comments upon it in his answer.

The right of pre-emption to lease is established in Mehmed Bahai Efendi's[42] *fetva*s, especially with regard to mixed-ownership areas. However, the uninterrupted flow of tax remains the mufti's main concern.

Question: Zeyd has a private house on *mukataalu* land of a village. In his courtyard adjacent to his house there is a one and half *dönüm* of extra land with fruit-bearing trees. The administrator of the *mukataa* registered it as *çift*. Is he allowed to say that I gave it to another person?

Answer: If Zeyd is to give the same amount that another would have paid for the place next to his yard and trees, then he should be preferred. If Zeyd's renting period has not elapsed and he is overcharged for the usufruct, then it is not allowed to remove [the plot] from his hands.[43]

Question: Zeyd has the possession of a plot by *mukataa*. He planted fruit-bearing trees with the permission of the administrator. However, over time the trees dried up and the plot became *tarla*. Zeyd left the place uncultivated for three years. Thus, the adminis-

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42 below). In one of his *fetva*s related to the change of personal status and the inflation of the number of janissaries, Mehmed Bahai stresses that a new janissary cannot escape the burden of taxation; Question: Amr, the son of the *reaya* Zeyd, became a janissary. The inhabitants of his village where Amr has land and *mülk*s told him to help them by participating in the taxation. Is Amr the janissary allowed to refrain from helping out by saying "I have become a janissary"? Answer: The prescribed taxes on land and *mülk* are like a part of property (ibid., 444).

41 Ibid., 439. This is again a *fetva* of Mehmed Bahai Efendi.

42 Mehmed Bahai Efendi became a *şeyhülislam* twice. His first term from 1649 to 1651 resulted in his removal by Melek Ahmed Paşa because of the unfortunate episode of the English ambassador's house arrest imposed by Bahai Efendi. His second term was from 1652 to 1654. He was then renowned for his quarrels with important administrative figures. Early on in his career, he was sacked from the post of judge of Aleppo when the *beylerbeyi* Ahmed Paşa accused him of smoking (*elinden tütünü çubuğu düşürmez. İcrayı akhâm-ı şer'iye etmeye şuuru yokdur*); see *İlmiye Salnamesi*, 458.

43 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 398.

trator wished to give away the uncultivated land. Is it permissible to hinder the administrator who argues that Zeyd, by not paying his *mukataa*, is not entitled to a *tapu*?

Answer: [If Zeyd], after not paying the *mukataa*, gives *öşür* or the equivalent to *öşür* tax, so much the better. However, [the administrator] can give [the land] by *tapu* to another and collect the *öşür*.[44]

Finally, tax collection and complications with regard to seed in sharecropping figure in early-seventeenth-century *fetva*s.

Question: Zeyd paid for the villages of the *zeamet* of Amr so many thousand *akçe*s and assumed the *maktu*. After he made his collection by *iltizam*, he [Zeyd] handed it over to Amr and took an oath that he did not take a surplus. Is Amr allowed to take from Zeyd the amount of *iltizam* which was agreed upon?

Answer: No.[45]

Question: Zeyd cultivates a *miri* plot. At harvest, the seed and the *hakk-ı deştbani* are extracted from the produce. The rest is divided into two parts. The *emin* takes half for the Treasury and the other half goes to Zeyd according to the ancient law. For one year, Zeyd's men sowed the land. However, owing to strong rain only a small part of the seed grew. If there is not much produce, is the *emin* allowed – according to the Sharia – to extract half of the seed and divide the other half?

Answer: Without the Sultan's order, the old established custom must not be altered. However, in accordance with the Sharia, seed cannot be extracted.[46]

This preliminary survey of the *kanunname*s and *fetva*s compiled after Ebussuud's redefinition in canonical terms of land and its taxation produces interesting conclusions. It took some time for the *nişancı*s drafting the *kanunname*s to adjust to the new classification. They seemed to have followed Ebussuud's prescriptions with regard to the rate of land tax, which was increased significantly to one-fifth. The customary mode of production and taxes were kept intact in the *kanunname*s after the 1570s. The only exception is the *kanunname* of Sivas. The repetition of Ebussuud's legal classification of lands in the Empire is employed to explain the payment by the cultivators of both tax and rent, to the Treasury and the owner of the land, respectively. Another interesting aspect of the Sivas *kanunname* is the description of the *icare* contracts and the legal rights of both cultivators and owners.

Although the impact of Ebussuud's rulings developed gradually in the Imperial Chancery, jurisprudence seems to be freed from the earlier restraint on commenting on *kanun* issues. The *risale* of Üskübî Pir Mehmed Efendi, *Zahirü'l-kudat*, is a very important ex-

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44 Ibid., 443.

45 Ibid., 419. This is a *fetva* of Hanefi Mehmed Efendi, who became a *şeyhülislam* for four months in 1656. Köprülü removed him from his post on the pretext that he was in poor health; *İlmiye Salnamesi*, 461.

46 Akgündüz, *Osmanlı Kanunnâmeleri*, 9: 431. For a comprehensive view on *ortakçılar*, see Barkan, *Kanunlar*, 90-93, 112. This is an excellent example of the legal tension between the two systems.

ample of the constant efforts of jurists to adjust to their new role. Apart from *fetva*s of Ebussuud and İbn Kemal, the *risale* also includes later editions of the *fetva*s of three *şeyhülislam*s, Hanefi Efendi, Bahai Efendi and Yahya Efendi, who served at the post from 1634 to 1656. The main concern in these *fetva*s was to retain a steady cash flow to the Treasury. Thus, the proprietary rights of the owners of usufruct are protected, if tax is paid. The involvement of the *askeri* class in the buying of the right to cultivate is not welcomed, and the *fetva*s imply that the use of force might have been used in most of these dealings. The other important issue is that land is not personally cultivated by the owner of the usufruct. He could simply use labour, and his right to employ labour is protected as long as his labourers paid the land taxes in full. Finally, *iltizam* on land taxes works to the benefit of the *mültezim*, who is still treated as an *emin*.[47] The examination of these *fetva*s is significant for two reasons. Firstly, as *fetva*s in Ottoman jurisprudence are responses to actual questions and not a product of juristic fiction, it is imperative to look at solutions provided by the jurists to newly introduced changes. Secondly, as İnalcık has noted, from the time of Ahmed I onwards, a new trend is apparent in the drafting of *kanunname*s with the inclusion of muftis' *fetva*s concerning land issues.[48] The compilation of the *kanunname-i cedid-i sultanî* (1673) is an example of the departure from the *kanunname*s of the 'classical age' and of the 'triumph' of Ebussuud's efforts.[49] Thus, it is not surprising that, in a decree of 1696, the use of the word *kanun* side by side with the word *Sharia* was forbidden.[50]

The Kanunname *of Rethymno (1650)*

The system introduced in Crete for the first time after the conquest of the western part of the island in 1645 seems to follow Ebussuud's definitions. The *kanunname* of Crete dated 25 December 1650-30 January 1651 published by Ersin Gülsoy[51] established that in every *sancak*, *zeamet*s and *timar*s were allocated. The tax to be paid on the produce was *öşür* and *salariye* at the rate of one-seventh for cereals, grape juice, olive oil, and cotton. All the *kanun* taxes were to be collected, and *çift bozan* for those peasants who cultivated the land of *sipahi*s other than their own was established at 300 *akçe*s. In this case, the cultivator was responsible for paying two *öşür*s, one due to his former *sipahi* and one to the one whose lands he cultivated. In the *kanunname*, the rule that the status of the land rather than that of its cultivator determines its taxation was followed. Thus, a Muslim peasant buying the vineyard of a non-Muslim would have to pay tax at the rate that the former owner paid. The only exception to this rule is when a Muslim peasant planted a vineyard,

47 See K. Akpınar, '*İltizam* in the *Fetva*s of Ottoman *Şeyhülislam*s', unpublished M.A. thesis, Bilkent University, 2000; L. Darling, *Revenue-Raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire, 1560-1660* (Leiden 1996), 119-152.

48 *EI*^{2}, s.v. 'Kānūnnāme'.

49 *EI*^{2}, s.v. 'Kānūn'.

50 Ibid.

51 E. Gülsoy, 'Osmanlı Tahrir Geleneğinde Bir Değişim Örneği: Girit Eyaleti'nin 1650 ve 1670 Tarihli Sayımları', in K. Çiçek (ed.), *Pax Ottomana: Studies in Memoriam Prof. Dr. Nejat Göyünç* (Ankara 2001), 197-200.

in which case he was responsible for paying *öşür* at the rate of 20 *akçe*s per *dönüm*. The *kanunname* strictly forbids the tax recipients from forcing the peasants to pay their *öşür* in cash instead of kind.[52] There is, however, an important addition to the earliest *kanunname* of Crete, which will set the tone about proprietary rights of land on the island. It is ordered that if the occupants of olive groves and other lands (*zeytun ağaçları ve sair*) did not accept their *reaya* status and fled to the enemy, their properties would be sold by the Treasury as private properties (*mülk*) to interested parties. These *mülk*s would have to pay the *öşür*. From the *sicil* entries of Rethymno we will see this process repeated with great frequency and disputes arising between buyers and former occupants, Christians, Muslims and new-Muslims alike.[53] Notwithstanding the need to appease the local population and reward those loyal to the Ottomans, one cannot but wonder as to the practicalities of changing the status of the land from *miri* to *mülk* as early as the 1650s.

Landownership Patterns and Taxation Prior to 1669

In a *sicil* entry of the Rethymno court dated 7-15 July 1654, whether land formerly belonged to the Franks (Venetians) or not was the factor which determined the amount of tax to be paid.[54] Yorgi Talafi took to court the *sipahi* of his village, Hasan Bey. He argued that, although previously he was paying the *öşür* at the rate of 1/7, now Hasan Bey asked for 2/7. In his statement, the *sipahi* complained that the peasant was not paying him the *tapu hakkı* and *ispence*, adding that the field was previously land belonging to Venetians (*frenk toprağıdır*).[55] Finally, after local people verified that the field was the private property of Yorgi, the *sipahi* lost his case.

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52 This is a common complaint of peasants, as in the seventeenth century tax was more frequently collected by proxy.

53 The earliest *sicil defter*s of Crete are those of Rethymno. They are stored in the Vakıflar Genel Müdürlüğü, in Istanbul. The first two were examined by M. Oğuz, 'Girit (Resmo) Şer'iye Sicil Defterleri (1061-1067)', unpublished Ph.D. dissertation, Marmara University, 2002. For a description of the *sicil* collection see A. N. Adıyeke and N. Adıyeke, 'Newly Discovered in Turkish Archives: Kadı Registers and Other Documents on Crete', *Turcica*, 32 (2000), 447-463. The general conclusion of Karen Barkey and Ronan Van Rossem that "the courts played an important role in channeling contention through its institutionalized forms of conflict resolution" is very applicable in the court records of Crete; K. Barkey and R. Van Rossem, 'Networks of Contention: Villages and Regional Structure in the Seventeenth-Century Ottoman Empire', *The American Journal of Sociology*, 102/5 (1997), 1379.

54 Vakıflar Genel Müdürlüğü (Istanbul), Resmo Kadı Sicilleri, Defter No. 57, p. 7 (from now on: Resmo, 57: 7).

55 Using the argument that the land was *frenk* did not always win a case. On 1-12 September 1654, Manoli accused Papas Kaloyeri that the latter unlawfully occupied 22 olive trees, a four-*ırgadlık* vineyard and four fields which were his parental right. The priest, most probably a monk, argued that he took the land from the Venetians (*ben frenkden aldum*). Three witnesses, among whom was another monk, Kaloyeros Melas, verified that the properties were inherited by Manoli (*fi'l-hakika eşya-yı mezkûre mezbur Manoli'nin babasından irsle intikal etmiş mülk-i mevrusdur*) (Resmo, 57: 19).

The differentiation between Venetian and local Cretan property also determined the status of the land. On 1-11 September 1655, Şaban Beşe claimed that the forty-*ırgadlık* olive grove and fifteen-*muzur*[56] seed field that he had bought from the Treasury was occupied by Mehmed Bey. He also produced in court an order (*buyurdu-ı şerif*) supporting his claim. The other litigant, Mehmed Bey, stated that he bought the properties from a *zimmi*, Yanaki Kuromiti, and added that the lands were Greek properties.[57] The imperial order did not help Şaban Beşe much after two Christian witnesses verified that the properties had belonged to Yanaki for more than 30 years and that they were Greek *mülk*.

The *sipahi*s granted the usufruct of *miri* lands by *tapu* to interested cultivators. In 1655, Server Ağa granted to İbrahim Beşe the use of a three-*muzur* seed field for a *tapu* of six *guruş* which was previously in the hands of a *zimmi* named Limo. As the owner of the *zeamet*, Server Ağa, explained, the field was flooded five years before, and the previous cultivator refused to plant it, thus severely affecting his income. The second reason that the *sipahi* gave was that the *zimmi* did not have a valid *tapu* (*müstahikk-ı tapu*).[58] The fact that he came up with this argument five years after the land was left fallow, and despite the provision in the *kanunname* that flooded lands are not considered to be arable, implies that, soon after the conquest of Chania and Rethymno, the lands were left in the hands of their previous cultivators without the burden of confirming their right of usufruct.

The local population by 1654 was not yet accustomed to Ottoman rules relating to the ownership of the usufruct of *miri* land. Thus, in 1654, the son of Papa Nikolo took to court his *sipahi*, Mehmed Bey, saying that, although he had inherited a field from his late wife in the *timar* of Mehmed Bey, he was obstructed from cultivating it. The *sipahi* responded by questioning the eligibility of the husband to inherit land from his wife. He asked whether it was canonical (*emr şer'in*) for a spouse to occupy land by inheritance from a deceased spouse. The answer of the *kadı* is illuminating with regard to *kanun* land laws: "according to the imperial *kanun*, land should not be attained by way of inheritance from spouse to spouse".[59] The *kadı* of Rethymno, being aware of the illegality of *kanun* law on land transfer, although asked to comment on the Sharia law, referred to the imperial *kanun*.

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56 A *muzur* is estimated to be approximately 400 square metres; see Ch. Gasparis, *He ge kai hoi agrotes ste mesaionike Krete, 13os-14os ai*. [Land and Peasants in Medieval Crete, Thirteenth-Fourteenth Centuries] (Athens 1997), 43.

57 Resmo, 57: 40 (*ben bağ-ı mezburı Yanaki Kuromiti nam zimmiden aldum, Rum yeridir*).

58 Resmo, 57: 40 (12-21 September 1655). Two Armenians paid the *tapu* tax and were granted the right of usufruct on formerly abandoned fields dedicated to the *evkaf-ı hümayun*. The *öşür* on the *vakıf* lands was at the lower rate of 1/8, adding an advantage to cultivators (Resmo, 56: 257 [12-22 September 1654]). Two fields of abandoned, uncultivated land with their fruit-bearing trees and vineyards were given by *tapu* to a woman, Manolica Kaloyeri, in 1649 and 1650 (Resmo, 56: 66 [1 December 1649 and 26 October-24 November 1650]).

59 Resmo, 57: 17 (15 August-12 September 1654) (*kanun-ı padişahî üzere zevceden zevce bi-hasibi'l-irs toprak değmemekle*). In another case, Ramazan, the *sipahi* of Agios Yannis, gave by a *tapu* of two and a half *riyal guruş* the fields of the late Andonya Kurila, who died without heirs, to, probably her husband or relative Marko Kurila (Resmo, 57: 51 [10 November 1654]).

The rather complicated issue of ownership of usufruct is apparent when three Christians from the village of Amnatos took to court the Prior of the Çanlı Monastery Gumeno Papas. As we are informed by the entry, with the permission of the owner of taxes, they had taken possession by *maktu* of the *öşür* and the other *kanun* taxes (*sahib-i arz ma'rifetiyle ber vech-i maktu âşar ve rüsum ve bad-ı hava ve mahsulatına vâzıu'l-yed olan* …). As representatives of the owner of taxes, they gave to the said Papas a *tapu* of 15 *guruş* for a forty-*muzur* field previously owned by a *zimmi*, Frenke Savanaco, who died six months earlier without issue. The condition was that the prior of the monastery would cultivate the land and pay the *öşür* to the *sahib-i arz*. The right of usufruct and the produce after the deduction of the tax due to the *sipahi* was then made into a *vakıf* for the monks of the Çanlı Monastery according "to their worthless religion".[60]

From the examples seen so far, the two types of landed property, that is, privately-owned and state-owned, co-existed before 1669, although I have not been able to establish the exact ratio of the former to the latter. However, the infrequency of entries from the *kadı* court of Rethymno of *miri* lands might be an indication that over time private property might have been more frequent than *miri*. In terms of taxation, there is no difference between the two types of ownership; only proprietary rights, like inheritance, sale and pledge, made *mülk*s more attractive.

To comprehend the changes introduced by the 1670 *kanunname* we would have to examine two more areas, namely tax collection and cultivation methods. As far as tax collection in seventeenth-century Crete is concerned, it followed the general trends in other parts of the Empire. The land taxes were leased by their owners to *mültezim*s as *maktu*. The yearly taxes of 1651 from villages belonging to the *evkaf-ı hümayun* were given in return for 1,000 *riyal guruş* to the administrator of the *vakıf*, Kurd Ağa. He was accused of charging more than he should, but the villagers could not prove their case.[61] Christians, like Muslims, bid successfully in leasing tax-collection rights. Papa Tito, a priest, obtained the sheep tax of Muslim villages for 5 *akçe*s per head and 1 *akçe* as registration fee (*yazıcı akçesi*).[62] The leasing of land taxes occasionally created misunderstandings. On 18 September 1652, Hüseyin, the *alaybeyi* of Rethymno, gave to Mustafa Bey a *timar* worth 6,000 *akçe*s, which belonged to a deceased Kenan. The entry depicts one of the frequent problems of sub-contracting; it mentions that "Hüseyin the *alaybeyi* should not claim that 'Kenan was my own man, thus I have given by *maktu* all taxes to the so and so janissary; therefore, there is nothing for you [Mustafa] to claim for this year'".[63]

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60 Resmo, 56: 10 (9-18 November 1656).

61 Resmo, 56: 67 (10 August 1651). In a similar case, the *sipahi* Ahmed sold the 1652 taxes of Saytures village as *maktu* to Ahmed Çelebi for 125 *guruş*.

62 Resmo, 56: 82 (undated). Veli Ağa gave the revenue for the year 1063 of his son, Ali's, *serbest zeamet* – a former property of the Venetians (*frenk mülkleri*) – by *maktu* for 700 *riyal guruş* to Lorenzo Patelaro and Coni Berito. According to the entry, they could collect the full *mahsulat*, *cürm-i cinayet*, *bad-ı hava*, and *kul ve cariye müjdegânesi* (Resmo, 56: 95 [25 August 1652]).

63 Resmo, 56: 95 (*… timara mutasarrıf olan Kenan fevt olup tımarı mahlûl oldukta işbu darende-i huruf rüsumatın ahz u kabz etmek istedükde sabıka liva-yı mezbur alaybeyisi olan Hüseyin nam kimesne mezbur Kenan benüm ademüm idi, maktuan cümle mahsulin* [...] *nam yeniçeriye*

Peasants, on their part, would organise themselves to raise their taxes and hand them over either directly to the recipient or his representative.[64] Unlawful claims and over-taxation are regular complaints of the peasants.[65]

Although the Ottomans did impose a new taxation system on the island, previous practices were still a point of dispute between owners of land and cultivators. Nikolo Sagonaco, most probably a Venetian lord, claimed in court that Konstantin used to give him during the Venetian time land tax (*yer hakkı*) for his nineteen-*muzur mülk* fields, adding that Konstantin subsequently refused to pay any more, since the arrival of the victorious army of the Muslims. Konstantin in his defence explained that the fields were his inherited private property and that Nikolo used to be their *sipahi* during the Venetian period. He argued that the *yer hakkı* was taken by way of *öşür*, concluding that he paid his tax now to his *sipahi*. As Nikolo could not prove ownership, he lost the case.[66] In a similar case, Mihali took to court Franci claiming that the latter had bought during the Venetian period the *nevelle*[67] of a field and a vineyard from a man called Papas. Franci was supposed to cultivate the land and pay the *nevelle* to Papas, who would then pass it on to Mihali. His complaint was that since the Ottoman conquest Franci had not paid. Franci explained that in the time of the Venetians *nevelle* was a kind of *öşür*. Since the conquest, the village was given as *timar*, and the *öşür* was paid to the *sipahi*s Osman and Mustafa. According to the court decision, as it was not allowed to pay taxes twice for the same private property, Mihali was reprimanded and his case was dismissed.[68]

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virmişimdür, bu senenün mahsulinden sana aid nesne yokdur, deyü buna aid ve raci ve tahvil ve tarihine düşen mahsulin virmede mani olmağla buyruldu). For the *iltizam* on land taxes see above, n. 47.

64 Resmo, 57: 28 (19-28 March 1655). A *zimmi* took to court two other *zimmi*s who were responsible for collecting the *miri* taxes of the village, because after the collection they claimed that there was still money missing and they had therefore to ask for more from all villagers. It was decided that the loss should become their personal burden.

65 Mehmed Çelebi – who leased the taxes of H. 1064 of the village of Yerani from its *zaim* Hüseyin Ağa – was accused that he collected the *öşür* at rates ranging from 1/3 to 1/8 (Resmo, 57: 12 [12 August 1654]). Similarly, new Muslims tried to get themselves exempted from land taxes to no avail; Stavrinidis, *Metaphraseis*, I: 23-24, No. 35.

66 Resmo, 57: 8 (18 July 1654).

67 According to J. Redhouse, *A Turkish and English Lexicon* (Istanbul 1890), 881, 'neval' means "gift, present, a share", whereas 'nevale' is "portion, a single thing given as a gift". According to F. Develioğlu, *Osmanlıca-Türkçe Ansiklopedik Lûgat* (Ankara 1982), 990, 'nevale' also bears the meaning of 'tax'.

68 Resmo, 56: 25 (27-31 March 1657). There is a follow-up to the dispute between the two men. On the same day Franci this time took to court Mihali claiming that he was obstructing him from the use of his privately owned field and olive trees inherited by his father. Mihali argued that he had bought these properties during the Venetian times from a *zimmi* called Papas and that he was not aware that they were the private property of another. He lost this case, too (Resmo, 56: 25).

Mode of Production Prior to 1669

There are two factors to explain with regard to the mode of production in newly conquered Ottoman Crete. The first one is the custom of sharecropping, or employment of labour followed in the Venetian period. The second one is the type of cultivation; from the seventeenth century onwards, it seems that the majority of cultivations were vineyards and olive groves.[69] Frenka Kalergi complained in court that 25 years ago Yani Manusaki's father had planted a vineyard on her three-*muzur mülk* field, on the condition of handing over 2/3 of the produce. However, although since the Ottoman conquest the vineyard had been destroyed and left fallow, two years ago Yani started cultivating it again without giving her a share. In his defence, Yani said that he found the vineyard in his possession and assumed that it was Venetian property without being aware that it belonged to Frenka's father. The court's decision was to grant seven out of fourteen olive trees to Yani and leave the ownership of the land and of the remaining trees to Frenka.[70]

The Ottomans continued this system of shared cultivation. The *alaybeyi* of Rethymno, Hüseyin Ağa, gave for cultivation his three *mülk* fields and olive trees to a Muslim and a Christian. They declined the offer, thinking that it was not advantageous for them (*mukaddema virilmişiken akçaları değmeyüb*). He then gave the properties to their previous cultivators, three Christians and a Muslim, on two conditions, namely that three years after replanting they should pay 45 *riyal guruş* from the produce, and that every year they

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69 Despite the Venetian policies designed to ensure the supply of grain for the island, cereal production had ceased to meet local demand and grain had to be imported, largely from Anatolia; Y. Triantafyllidou-Baladié, *To emporio kai he oikonomia tes Kretes (1669-1795)* [The Trade and Economy of Crete (1669-1795)] (Heraklion 1988), 48. The wine trade was so lucrative that peasants paid their obligatory 1/3 tax in wheat (*terzaria*) in addition to 1/3 of the must; ibid., 168. Apart from free property belonging to the Venetian nobility, conditional or limited ownership was extensive. This was a perpetual contract of sharecropping obliging the cultivator to pay 1/2 of the produce to the owner of the land. Sharecropping was used when extensive labour was required to reclaim wasteland or for the planting of new trees. Tenants were the actual owners of 1/4 of the plot and were free to alienate it. The tenants could lose their rights only if they had not fulfilled their obligations to the landlord. The system of *gonicari* was based on long residence and the payment of rent. Unlike the serfs (*villani*), they could not be dispossessed of the land and moved to other properties. Although the rate of rent was established at 1/3, in seigniorial estates the rent would be from 1/3 to 1/10 of the harvest according to the custom of each estate. For more detailed information see A. Kasdagli, 'Notarial Documents as a Source for Agrarian History', in S. Davies and J. L. Davis (eds), *Between Venice and Istanbul: Colonial Landscapes in Early Modern Greece* (Princeton 2007), 55-70, and A. B. Stallsmith, 'One Colony, Two Mother Cities: Cretan Agriculture under Venetian and Ottoman Rule', in ibid., 151-172.

70 Resmo, 57: 10 (undated). From another entry, we found that Frenka Kalergi was a big landowner. She sued the peasants of her former village on the grounds that they demanded taxes from her although she paid her *cizye* and *ispence* in Rethymno, where she had moved. The peasants proved that she was the owner of half of the village lands and ensured that she would pay her share on all land taxes (Resmo, 57: 12 [12 August 1654]).

would pay 20 *muzur*s[71] of barley and 1/7 as *öşür* for the olive trees. The duration of the contract was three years.[72] This is in principle a *müsakat* contract, the lease of a plantation for one crop period, with profit-sharing. The contract for such a lease is between the owner of the plantation and a husbandman, who undertakes to tend the trees or vines of the plantation for one season, at the end of which the proceeds of the crop are divided in agreed portions between the two contracting parties. The landowner's portion constitutes his rent (*udjra*, *ücret*). As the fields were replanted with cereals and vines, the owner expected his rent to be paid at the end of the three-period contract. As to the second clause, the yearly payment of taxes was the sole responsibility of the cultivators; thus, they were asked to pay the *öşür*.[73] Occasionally members of the *askeri* class were involved in sharecropping (*müzaraa*). In an imperial order dated 8 June-7 July 1652 it was established that members of the *askeri* were involved in a partnership with the peasants of Piskopi village to cultivate the fields of the villages belonging to the *hass-ı hümayun* in Crete. However, in the calculation of the *öşür*, instead of collecting 1/10 for their share and 1/7 for the peasants' share, they just collected 1/10 from all, thus damaging the income of the *hass*; the *askeri* were warned against this practice.[74]

Apart from *müzaraa* and *müsakat* contracts, another method of production was the *icare*, the hire of services in return for a fee. Until recently, Yakumi was cultivating Antoni's *metochi* for a fee through an *icare* contract. They both agreed in court that henceforth Yakumi would provide Antoni with 12 *muzur*s of barley per year, regardless of whether he cultivated the land or not.[75] This was presumably the rent of the land when his contract was transferred from *icare* to *müzaraa*. As part of the Ottoman effort to promote dervish activities in Crete, former lands of Venetians granted to the *evkaf-ı hümayun* were given to Derviş Mehmed to cultivate, for an advance fee of 10 *akçe*s per month payable to the *vakıf*. He was also held responsible for all the land taxes again payable to the *vakıf*. Mehmed, on his part, established ownership of this right for all his descendants (*kendüsi ve kendünden sonra evladı ve evlad u evladı karnen ba'de karnın ve neslen ba'de neslin sair emlâk sahibleri gibi mutasarrıf olup*).[76]

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71 This is a measurement for grain and should not be confused with the measurement of land by the same name. According to Greene, *A Shared World*, 125, it is equal to 12-15 *okka*s depending on the product.

72 Resmo, 56: 93 (20 July 1652).

73 Although, according to Abu Hanifa, in a contract of tenancy (*icare*), as the *müsakat* contract is, it was always the responsibility of the proprietor to pay *harac-ı muvazzaf* and *harac-ı mukaseme*, his disciples in the eighth and ninth centuries tended to shift the tax burden from the lessor to the tenant. Abu Yusuf decided that the tenant is responsible for the *öşür* in the *icare* contracts and in the sharecropping (*müzaraa*) ones; B. Johansen, *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods* (London 1988), 16.

74 Resmo, 56: 93.

75 Resmo, 56: 9 (undated).

76 Resmo, 56: 72 (3-12 April 1651). The same dervish got even more land by this method; see Resmo, 56: 90 (3-12 April 1651).

It seems, thus, that after the conquest of 1645, the Ottomans, hoping to appease the local population in the on-going war with the Venetians, introduced in Crete a hybrid system of *miri* and *mülk* landed properties. The Treasury confiscated vacant lands belonging to the 'Franks' (*Frenk*) and sold them as private properties to Muslims and Christians alike. Christians who fled from the battlefield were allowed to return and reclaim their properties. This is the case of Kalica, who escaped from Rethymno as the army advanced and in 1647 after a safe conduct was granted (*aman virilmekle*), she returned to her house and property. The imperial order that she obtained strictly forbade anyone from harassing her.[77] However, the choice to allow extensive private landed property on the island could not be merely the result of political manoeuvring and propaganda. When we look into the way that taxes were collected and the mode of production, it is apparent that Empire-wide seventeenth-century trends are followed. The *timar* land and taxation system was rapidly being transformed. Agricultural and other taxes of the *sipahi*s were given to *emin*s or *mültezim*s, and constant complaints of injustice about the collection of taxes were registered by the peasants.[78] On 30 August 1657, Zaim Hüseyin Ağa admitted in the presence of the villagers of Yerani that for years he gave the collection of taxes by *maktu* to third parties. Tax collectors had oppressed the population, and Hüseyin promised in court to collect the taxes in person, not to employ an assessor but to set the tax after going to the fields, and to take the *öşür* at the rate of 1/7. In return, his villagers gave him a loan of 100 *muzur*s of wheat and 100 *muzur*s of barley to be deducted from the taxes of the following year.[79] The relatively small *timar*s of Crete could not have been attractive to *sipahi*s, and in the *sicil*s there are frequent references to vacant *timar*s.[80] Muslims and Christians were involved in tax collection, which gave them, as we have seen, the right even to allocate *tapu*s subsequently made into *vakıf*s, as seen earlier. There is only one type of ownership equally advantageous to *mülk* and that is the usufruct of *vakıf* and imperial *hass* lands with their special tax exemptions and low payments in *maktu*.[81] Finally, the Venetian sharecropping methods continued during the Ottoman period under the contract of *müsakat*.[82]

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77 Resmo, 56: 74 (6 February 1647-26 January 1648).

78 Stavrinidis, *Metaphraseis*, I: 77-78, No. 107 (14 October 1658). The *voyvoda* of Rethymno obtained the collection of taxes of Piskopi village and sold the right to collect to Mahmud Beşe for 50,000 *akçe*s.

79 Ibid., I: 47, No. 68.

80 Ibid., I: 66-67, No. 92 (26 July 1658): An *ağa* was appointed as the *emin* to collect the taxes of vacant *timar*s on behalf of the Treasury; Resmo, 56: 58 (21-29 June 1650 and 11-20 June 1650), 56: 59 (1 June 1650), and 56: 447 (2 March 1651). In Resmo, 56: 55 (12 March 1652), two *sipahi*s reached an agreement (*sulh*) about the taxes of a 6,000-*akçe timar* which was claimed by both.

81 Resmo, 56: 63 (25 December 1650-3 January 1651), 56: 4 (20 August 1656); Stavrinidis, *Metaphraseis*, I: 61-62, No. 85 (10 October 1657).

82 In *müsakat* contracts the rights of the cultivator are protected; Question: Zeyd gave his orchard to Amr and they had agreed to share the fruit between them. After they concluded a *müsakat* contract according to the Sharia, Amr cultivated the orchard (*timar edüb*). If, when the fruit becomes ripe, Zeyd takes possession of all the produce, can Amr claim half of it from Zeyd? An-

Thus, 12 years before the final conquest of the island and the promulgation of the *kanunname* of Crete in 1669-1670 there was a combination of *miri* and *mülk* lands already in place; taxes – even those due in kind[83] – were collected in cash by representatives and tax collectors, whereas fields were cultivated by sharecropping methods.

The Kanunname *of 1670*

Molly Greene and Ersin Gülsoy supplemented the blank spaces of the *kanunname* of Crete published by Barkan.[84] Outwardly, the *kanunname* seems to depart from the classic format and wording of its kind. Gilles Veinstein has observed the peculiar Islamic character of the *kanunname* with its reference to the glorious past of the first Caliphs, the use of canonical terms like *cerib* and *dirhem*, the quotation from the Qur'an and, most importantly, the change of the legal status of the land from *miri* to *haracî*.[85] Upon introducing the *harac* tax, the compiler of the *kanunnane* feels obliged to re-educate his readers. To avoid any possible misunderstandings, he explains that the poll tax known as *cizye* is actually *harac*.[86]

When it comes to the introduction of the second type of *harac*, that is, the *harac-ı arazi*, the lands of Crete are categorised as *arazi-i haraciye*. Following the Hanafi prescriptions, *haracî* land is the freehold of its cultivators; thus, the legislator repeats the proprietary rights of peasants who can sell, buy and exchange their properties at will. Then he specifies that the *harac-ı arazi* is of two types, the first applied to fields and land with few fruit-bearing trees. After this type of land is measured, the *harac-ı mukaseme* at the rate of 1/5 is levied. According to the provisions, if the land is left uncultivated for a year, no tax is demanded. Equally, if it produces two crops in a year, then the tax is due

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swer: Yes, he can (Çatalcalı Ali Efendi, *Fetava*, Vol. II [Istanbul 1893], 732). For the same *fetva* see Abdurrahim Efendi, *Fetava*, Vol. I [Istanbul 1827], 137. Even if the produce cannot cover the obligation of the cultivator, the landowner cannot demand any payment: Question; Zeyd gave his *mülk* fig orchard to Amr to cultivate for a year. They concluded a *müsakat* contract on condition that Amr would give Zeyd 40 *kantar*s of figs and keep the rest. Amr cultivated the orchard for a year and collected the produce. However, it did not amount to 40 *kantar*s. Although Amr gave an account to Zeyd and took an oath that he had not kept any surplus, Zeyd was not convinced. By saying "we had agreed that you hand me over 40 *kantar*s of figs", is it permissible to take them from Amr? Answer: No, and Amr can take the fair fee for his work (*ecr-i misl*) (ibid.). Upon completion of the contract, no claim changing the status of the land can be accepted; Question: Zeyd, Amr and Bekr received from Beşr an orchard by way of *müsakat*. While they were cultivating it, they claimed that the aforementioned orchard given to them in writing was previously their own *mülk*. Is it allowed to hear their legal case? Answer: No (ibid.).

83 Resmo, 56: 6 (19 October 1656 and 25 September 1656), 56: 75 (undated).

84 Gülsoy, 'Osmanlı Tahrir Geleneğinde Bir Değişim Örneği', 200-203; Greene, 'An Islamic Experiment?', 62-65.

85 Veinstein, 'Le législateur ottoman face à l'insularité', 103-104.

86 Gülsoy, 'Osmanlı Tahrir Geleneğinde Bir Değişim Örneği', 200: "harâc iki nev üzre mebnî olub nev-i evvel ki keferenin rü'usuna vaz olunur cizye ile müsemmâdır". This is the *harac-ı rüus* or *harac-ı baş*; see *TDVİA*, s.v. 'Haraç', 90.

twice. The second type of land tax regards vineyards and orchards. After they are measured, *harac-ı mukataa* is payable as a fixed amount of money per unit of land. The use of the term *harac-ı mukataa* instead of the expected *harac-ı muvazzaf* is intriguing.[87] The compiler, aware of this peculiar term, hastens to explain that the tax is established in the written Sharia (*ketb-i şer'iyede tayin buyrulan* – it is rather difficult to trace which "written Sharia" he refers to) as *harac-ı mukataa*. This tax should be levied at the rate of 10 *dirhem*s per *cerib* of vineyards and orchards; no more or less should be demanded.

The uneasiness stemming from the introduction of this new classification of land tax is apparent when this section of the *kanunname* is completed by the sentence that the tax of this type of land is *harac-ı mukataa* (*harac-ı arzın bu nevi harac-ı mukataadır*). In classic Hanafite doctrine and Ebussuud's definitions, both *harac-ı mukaseme* and *harac-ı muvazzaf* are to be collected from the same plot of land. However, in Crete we see a division in the land taxation according to the type of cultivation. Moreover, *harac-ı muvazzaf* is a fixed sum of money whose amount depends on the size and quality of the land, and not on the type of cultivation.[88] If we are thus to equate *harac-ı muvazzaf* with *harac-ı mukataa* as used in the *kanunname*, we are faced with a discrepancy, as the latter is defined as a tax depending upon the size of a specific type of cultivation, i.e., fruit-bearing trees.[89]

To solve the problem of the use of the rather curious term *harac-ı mukataa* – only found once more in the later dated *kanunname* of Mytilini island in 1709[90] – we would have to look at the terminology used for the taxation of orchards and vineyards in Ottoman *kanunname*s. Based on the *kanunname* of the Hüdavendigâr district published by Barkan, cultivators had to pay for orchards and vineyards a tithe on production. However, an estimated fee was decided under the name of *harac*, because of the difficulty which peasants had in paying the tax. This fee varies from province to province. Thus, *kesim* is collected for the tithe of orchards and vineyards.[91] This concept is elaborated in the

87 According to Baber Johansen, the *harac-ı muvazzaf* in the legal tradition of the Hanafite school "is a *mu'na*, a burden on the productive land which has to be accepted as a personal obligation by any person enjoying property rights on such lands"; Johansen, *The Islamic Law on Land Tax*, 89.

88 Ibid., 15.

89 The term *mukataa* with regard to land was used in Persia as an assessment method together with *masaha* and *mukasama*; *EI*^{2}, s.v. 'Kharadj' (A. Lambton). Under *masaha*, the amount due in kind or cash was based on the measurement of land. However, peasants had to pay tax even if they suffered losses from natural disasters or the breakdown of the irrigation system. The actual Ottoman practice according to İnalcık was this assessment method, as tithes were fixed not at every harvest year but for quite a long period up to even 30 years; İnalcık, 'Islamization of Ottoman Laws', 164. Under the *mukasama* method, tax depended upon the crop yield. This assessment method also safeguarded the taxpayer in the event of partial or total crop failures. Finally, *mukataa* prevailed in the remotest areas of Persia, and developed in parallel to the extension of *ikta* from the tenth century onwards; *EI*^{2}, s.v. 'Kharadj'. One of the main problems of the *mukataa* method was that assessments were frequently out of date.

90 Barkan, *Kanunlar*, 332-338; Veinstein, 'Le législateur ottoman face à l'insularité', 104.

91 Barkan, *Kanunlar*, 4.

kanunname of Malatya. The tithe on orchards was registered as *maktu* and paid in cash. The *kanunname* adds that in some customs and *kanun*s this tax is registered as *harac*.[92] As custom prescribed the payment of the tithe on orchards and vineyards as *maktu* and *kesim* (two synonymous words) due in cash under the name *harac*, we can perhaps trace the reasoning behind the use of the term *harac-ı mukataa*. We have to emphasise, though, that the term *harac-ı mukataa*, rather than being a canonical tax, is a reflection of Ottoman customary law. This is perhaps the reason why the *kanunname* of 1670 is so insistent in explaining the tax in Islamic terminology.

Finally, the produce of vineyards and orchards is correlated to the feasibility of profit. Unlike the case of other lands in Crete, the owners of orchards and vineyards were not allowed to leave their lands fallow and avoid paying their taxes (*Arzla intifaın imkânına taallûk ider. İntifa mümkün iken sahibi tatil eylese yine haracı mütekerrir olmayub taleb olunmaz*).[93] It is added that if the owner escapes or leaves the land fallow, despite being capable of cultivating it, then the land should be given away by means of *müzaraa* or *icare* to others who would pay the tax.[94] As we have seen from the earlier *sicil*s of Rethymno, this was already a mode of cultivation in practice.

Therefore, profit-making cultivations, like olive trees and vineyards, are bound to have attracted the attention of the lawgiver, who would attempt to safeguard the fiscal benefits of the Treasury. I suspect that the *harac-ı mukataa* was 'invented' to explain a new tax on profit-making crops. As we have already seen in the *sicil*s before 1669, these crops constituted the majority of agrarian produce on the island,[95] and their taxes were collected by tax collectors by *maktu*.

Interestingly, although so far the land system of freehold property introduced in Crete after 1669 is presented as unique, in fact Dina Khoury in her work on Basra has stressed the similarities between the two areas.[96] Basra was first conquered by Süleyman the Lawgiver in 1546. The city fell briefly to the Safavids, but their rule remained nominal. The Ottomans finally subjugated Basra in 1669. According to Khoury, in an effort to appease the local elites after the re-conquest of the city, the Ottomans accepted the *de facto* right of urban and tribal elites to the lands they had been cultivating, by declaring them pri-

92 Ibid., 115-116.

93 Gülsoy, 'Osmanlı Tahrir Geleneğinde Bir Değisim Örneği', 201.

94 Ibid.

95 The surveys of the lands of Rethymno carried out sometime between 1670 and 1673 published by Balta and Oğuz verify that the majority of the cultivations were fruit-bearing trees, whereas the percentage of grain-producing fields was relatively small; Balta and Oğuz, *Othomaniko ktematologio*, *passim*. Even before the Ottomans landed on the island, olive groves were flourishing in Crete; E. Balta, 'Olive Cultivation in Crete at the Time of the Ottoman Conquest', *OA*, 20 (2000), 147. For the legal status of orchards and fruit-bearing trees see C. Imber, 'The Status of Orchards and Fruit-Trees in Ottoman Law', in Idem, *Studies in Ottoman History and Law* (Istanbul 1996), 207-217.

96 D. R. Khoury, 'Administrative Practice between Religious Law (*Shari'a*) and State Law (*Kanun*) on the Eastern Frontiers of the Ottoman Empire', *Journal of Early Modern History*, 5/4 (2001), 305-330.

vate.[97] Similarities are not only confined to the legal status of the land. More interestingly, Khoury asserts that following re-conquest, Basra "experienced a strong commercial revival, bolstered by an expansion in the cultivation of cash crops such as rice and dates".[98] Commercial agricultural produce was not new to Basra; however "by the seventeenth century commercial production of dates spearheaded the property in the area and date trees and groves were privately owned, often in partnership with others".[99] The cadastral register of Basra compiled soon after shows a great resemblance to the one of Resmo published by Balta and Oğuz. They both list not only villages and taxes, but also the number of trees – in the case of Crete, olive trees – owned by individuals as private property.[100] Women in Crete, as in Basra, are registered as owners.[101] As Greene's proposed explanation for the new land system – as an Ottoman effort to attract Muslim settlers by using the classic Islamic concept of taxing conquered territories – is not applicable to Basra, Khoury discusses the influence of the reforming Köprülü viziers.[102] Moreover, I would add that the Köprülü reforms seemed to have the same model with regard to the legal status and taxation of commercial agricultural produce.

The ban on all *örfî* taxes is another point considered as proof of the Islamic character of the text. Logically, as the legal status of the land altered, all *örfî* taxes should have been banned. The compiler resorts this time to the *fikh* books to prove that all these taxes are dangerous innovations (*bid'at*).[103] The *kanunname* finally included contemporary measurements and currency equivalent to Islamic terms, another sign of a practical spirit.[104]

The Implementation of the 1670 Kanunname

After the issue of the 1670 *kanunname* there was still confusion about existing *miri* lands as parts of *timar*s. In 1671, Ioasaf, the Prior of the Jerusalem Monastery, complained that

97 Ibid., 316.
98 Ibid., 317.
99 Ibid., 318.
100 See Balta and Oğuz, *Othomaniko ktematologio*, *passim*.
101 Khoury, 'Administrative Practice', 318, 319.
102 Ibid., 320.
103 It is interesting that the curse quoted is from the Qur'an (Âli Imrân, 87 refers to non-Muslims): "fealeyhi la'netullâhi ve'l-melâiketi ve'n-nâsi ecma'în" (Their requital shall be rejection by God, and by the angels, and by all [righteous] men).
104 The text defines *cerib* as 60 by 60 *zira*s and each *zira* as seven *kabza*s. C. E. Bosworth (*EI*^{2}, s.v. 'Misāha') argues that each 'djarib' is different, depending on whether it is irrigated land or not, with an average of 1,600 square metres. The Cretan one is rather large, approximately 2,328 to 4,422 square metres, if we bear in mind that *zira* was somewhere between 48.25 metres and the *dhira al-misaha*, which had an average of 66.5 metres; see *EI*^{2}, s.v. 'Dhira' (W. Hinz). The text established the price of one *dirhem* at 14 *akçe*s. Thus, the tax per *cerib* was 140 *akçe*s. As *cerib* is a large unit for the small freehold of local Cretans, after 1669 the term *cerib* is used very infrequently; see, for instance, Stavrinidis, *Metaphraseis*, I: 254, No. 350. The terms used are *muzur* and *dönüm* (which approximates to 939 square metres; *EI*^{2}, s.v. 'Misāha').

the two *sipahi*s of the village of Loutraki, in the province of Maleviz, were demanding tax from him. He explained in court that the *tarla* and vineyard in question were granted to Mustafa Ağa of the Baghdad garrison. The prior then rented them for a *maktu* of 4,000 *akçe*s. He explained that he paid for the taxes of 1669 and even of 1670 when the *timar* was cancelled and became part of the village, which apparently created the confusion.[105]

The court activities of a Christian *sipahi* in 1673, three years after the new *kanunname* was issued, are of particular interest. Andreas Barotsis, the engineer working for the Ottoman army who proved instrumental during the siege of Candia, was given as a reward a *hass* (*mutassarıf olduğu hass karyelerinden*) of the two villages of Temenos and Anayortes.[106] In 1673, he obtained two *ferman*s issued in Edirne, addressing the *kadı* of Kandiye. In the first one, he complained that, although his villages were free from the jurisdiction of *beylerbeyi*s, *sancakbeyi*s, *voyvoda*s and *subaşı*s, these were interfering and collecting *cürm-i cinayet*, *bad-ı hava* and *resm-i arusane*.[107] Moreover, if a *reaya* was sentenced to death, the punishment was carried out outside his jurisdiction. The *ferman* forbids such practices as well as blood money fees. In the second *ferman*, Barotsis complained that his *reaya* had fled from his *hass* to other places, thus damaging his income. The *ferman* ordered that the peasants should be told that they were not allowed to cultivate other people's land. If they did not obey, then they would be punished by having to pay their land tax at a double rate.[108] As seen from the first *ferman* of Barotsis, taxes explicitly forbidden in the *kanunname* were still expected and collected. Both entries were eventually crossed out from the *defter* with the note that they were against the *hatt-ı hümayun* and the imperial *defter*. Eventually, Andreas Barotsis exchanged his *hass* in Kandiye with the village of Harkousi on Chios in 1677.[109]

In another case, a Christian named Karavelas from the village of Skizma took to court Hamid, son of Abdullah, accusing him of illegally occupying three plots of land in the village of Lakonia. The Christian claimed that the usufruct of the plots was given to him by the *sipahi* (*ma'rifet-i sipahi ile tasarrufunda iken*). He lost the case when Hamid produced his title deeds. The date of the entry is 22 January 1671, almost two years after the promulgation of the *kanunname*.[110]

The Collection of Agrarian Taxes

The collection of taxes by *maktu* continued, occasionally creating friction between tax collectors and peasants. On 16-20 October 1670, there was a dispute between the monks

105 Stavrinidis, *Metaphraseis*, II: 14, No. 550.

106 Idem, 'Andreas Mparotses, ho prodotes tou Megalou Kastrou' [Andreas Barotsis, the Traitor of the Great Castle (Candia)], *Kretika Chronika*, 1 (1947), 293-430.

107 Idem, *Metaphraseis*, II: 56-57, No. 611. Cf. ibid., I: 315-317, No. 400 (19 March 1669).

108 Ibid., II: 57-58, No. 612.

109 Ibid., II: 280, No. 896. His *hass* was given in the same year to the Vizier Ahmed Paşa as a *hass* of 100,000 *akçe*s.

110 Ibid., I: 214-215, No. 313. For the tension created by the eviction from their lands of cultivators by *tapu* by previous owners, see *fetva*s *infra*.

of Cretan monasteries and *sipahi*s.[111] The Sultan ordered that the lands be measured and their *maktu* be registered. Nobody should force the monks to re-measure the land after they paid the *maktu* equal to *öşür*.

Taxes were farmed out by *iltizam* and the return was either placed in the Treasury or paid directly wherever needed. The taxes of the *nahiye* of Milopotamo for the year 1083 were a *maktu* worth 9 *yük*s, 48,982 *akçe*s. A certain Ömer Ağa took them by *iltizam*. The produce was designated for the food of the janissaries of the Kandiye castle.[112].

Some *iltizam* holders became quite professional. On 28 Rebiyülevvel 1083/31 July 1672, Hacı Ahmed Ağa obtained as *iltizam* the *mukataa* of the *yave cizyesi* (poll tax paid by foreign non-Muslim merchants) paid as *maktu* worth 50,000 *akçe*s per year.[113] On the same day, he obtained another *iltizam*, the collection of the *maktu* of all monasteries in Crete from March onwards. This *maktu* was worth 5 *yük*s, 8,229 *akçe*s. In the entry, the official profession of Ahmed Ağa is mentioned; he was the *mütevelli* of the *defterdar paşa*'s *vakıf* (that must be Ahmed Paşa mentioned below), a position which must have allowed him to collect important inside information about various *iltizam* auctions. This inside information explains why some months later he declined to continue collecting the *yave cizyesi*, which was subsequently given to a Mustafa Ağa.[114] However, his luck did not last long. Almost a year later, the Vizier İbrahim Paşa sent an order to the *defterdar* Ahmed Paşa and the *kadı* of Kandiye.[115] Apparently, Hacı Ahmed Ağa subcontracted the *maktu* of the monasteries to another person who created problems. The *defterdar* and the *kadı* were ordered to punish him and give the *iltizam* to another.

Although the land tax was due in kind, tax collectors demanded it in cash. Ali Beşe sent a petition to Fazıl Ahmed Paşa saying that the pasha's representative charged with the collection of the land tax on wheat from the fields of the village of Kartero, instead of coming to the fields as invited, demanded the tax in cash. In his prompt response to the *naib*, Fazıl Ahmed Paşa forbade this act.[116]

Mode of Production After 1669

As for the system of cultivation, Venetian sharecropping practices found their way into the court records of Kandiye. On 23 December 1670, Nikolas came to court as the representative of his under-age nephew. He argued that his late brother Frangias gave the accused,

111 TAH, Vol. 4, p. 6 (from now on: TAH, 4: 6): "Cezire-i mezburede vaki tasarruflarında olan yerlerinin hin-i tahrir-i cedidde hak üzere mesaha olunduktan sonra defter-i cedide maktu kayd olunub bunlar dahı öşre muadil maktularını eda itmeğe razılar iken sipahileri olanlar kanaat itmeyub mücerred ahz ve celb içün tasarrufunuzda olan yerleri tekrar ölceruz deyü rencide itmekden hali olmadıkların bildirüb men ü def olunmak babında emr-i şerifim rica itmeğin …".

112 TAH, 4: 6 (15 Muharrem 1084/3 May 1673).

113 TAH, 4: 5.

114 TAH, 4: 4 (22 Zilkade 1083/11 March 1673).

115 TAH, 4: 2 (6 Muharrem 1084/23 April 1673).

116 Stavrinidis, *Metaphraseis*, I: 327, No. 411 (11 October 1671).

Ioannis, fifty-*muzur* lands to cultivate on condition that he would hand over half the produce. The litigant added that now the cultivator Ioannis demanded half the land. In his defence, Ioannis argued that he got the sharecropping contract during the Venetian period. As he explained, at that time cultivators on a half or one-third rent contract acquired property rights on the land of an equal percentage. He, thus, possessed the land on this basis. The judge reasoned that as these contracts were canonically void, Ioannis could not claim ownership of half of the lands that he was previously cultivating as a sharecropper.[117]

Ownership would have to be established firmly to accept the claim of a cultivator; however, this did not hinder some from trying. On 18 March 1671, a new Muslim, Ahmed Beşe, son and sole heir of the late Papa Nikolas, who had become Muslim after the death of the latter, came to court to claim a vineyard of three *dönüm*s from Papa Ioasaf. Papa Ioasaf explained that the vineyard belonged to the monastery and the late Papa Nikolas was cultivating it on condition of paying 1/3 to the monastery. After the late Papa Nikolas' death, it was cultivated under the same conditions by the deceased's brother Ignatios. The new Muslim lost the case when the priest presented his witnesses.[118]

Even years later, Venetian practices were still the cause of law disputes. On 28 September 1672, Yorgis, son of Marko, resident in the village Venerato, sued Peri, son of Lorenzo, from the village of Avgeniki. Yorgis said: "I have in my possession from my late father, Marko, a vineyard of four *muzur*s. That was in my father's possession for 30 years and I have had it for 25 years. I have paid all the taxes. Peri is claiming that, as his father Lorenzo was a lord in the Venetian times (*Frenk zamanında babam mezbur Loranso arhonda olmağla*), he received 1/3 of the produce of our vineyards and that after the death of his father, he [Peri] received this percentage for some years. Now he is insisting that I should give him the 1/3". When the *kadı* interrogated Peri, the latter admitted that the vineyard had belonged to Yorgis for many years. He was subsequently forbidden from interfering.[119] Finally, in another case, İbrahim Bey, son of Mustafa, sued Yermanos, son of Nikolas, a priest of the Angarato Monastery. On 4 November 1672, İbrahim claimed that he had given a plot of land of 15 *muzur*s to Yermanos on condition that the latter would pay the *sipahi* 1/5, İbrahim Bey another 1/5, and the rest would remain with him. However, Yermanos, after paying the 1/5 to the *sipahi*, refused to give İbrahim his share. Yermanos answered that the land was not fertile and that it was given to him on condition of only paying the *sipahi*'s 1/5. İbrahim failed to present witnesses and thus demanded that Yermanos should take an oath. Yermanos took the oath and the litigant was forbidden from interfering again.[120]

From the examples mentioned above, it is apparent that conformity to the new regulations took some time to attain. Apart from the abolition of *kanun* taxes and the change in the legal status of land, the system of taxation collected by *emin*s or tax farmers continued and land was still cultivated by *müsakat* contracts. Although the lands of Crete

117 Ibid., I: 215-216, No. 314.
118 Ibid., I: 233-235, No. 338.
119 TAH, 4: 95 (4 Cemaziyelâhir 1083/28 September 1672).
120 TAH, 4: 128 (12 Receb 1083/4 November 1672).

became private properties, the collection of land taxes and the methods of production remained the same as before 1669. It seems that the trend towards freehold property that we witnessed in the early judicial records of Rethymno came to a head in the 20 years prior to the full conquest of the island in 1669. The Ottomans were thus faced, as in their other conquests, with the need to incorporate local custom into the new land taxation system. However, the sharecropping Venetian system, granting ownership of a percentage of the land to the cultivators, seems to be very complicated. Thus, Ottoman judges opted for recognising proprietary rights to the cultivators. As the Venetians were defeated, the maintenance of their seigniorial rights could not have received approval among the local population. One issue, though, still remains open to investigation. What was the reaction of peasants in possession of the usufruct, when the previous owners returned to reclaim their freehold land after a general amnesty was granted?

Ottoman Jurisprudence on the Cretan Land System

If the purpose of the issuing of the *kanunname* was to adhere to the principles of Islam and to return to the pious practices of the early Caliphs, then the local Muslim population must all have been supportive of the new land system. Discontent, though, is traceable in a series of *fetva*s of Abdurrahim Efendi issued or collected before 1709. Towards the end of a rather long chapter on border issues between the Abode of War (*darü'l-harb*) and the Abode of Islam (*darü'l-islâm*), he included two sub-chapters on land on the frontier and especially in Crete.[121]

> Question: When Crete was in the hands of the infidels, the army of Islam invaded and conquered by force (*anveten*) some castles. Some of the infidels residing in these castles refused to agree to become *zimmi*s and fled to the Abode of War. The *defterdar*, whose responsibility it was, took their lands away and gave them in return for an amount of *akçe*s to some people on condition that they cultivate the land and pay the tax on produce (*öşür*) to the *sahib-i arz*. If they [cultivators] had not been given the ownership of the lands (*temlik etmemiş olsa*), but for many years they have been given the usufruct in the manner indicated above, could the representative of the Treasury with an imperial order still give away the aforementioned lands to those offering to pay *harac-ı muvazzaf* and *mukaseme* or the amount of the *harac* by i*care*? Is it permissible?
>
> Answer: Yes.[122]

The problem in this *fetva* is twofold. Firstly, cultivators owning the usufruct but not the essence (*rakabe*) of the land, although they had been conscientious taxpayers, lost their lands to others willing to pay the higher taxes of *harac-ı muvazzaf* and *mukaseme*.

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121 Although Abdurrahim Efendi spent less than two years in the office of the *şeyhülislam*, his collection tends to include *fetva*s of previous muftis as well. It seems that his aim was to create a comprehensive judicial guide.

122 Abdurrahim, *Fetava*, 1: 69.

Secondly, this competition and gross injustice, as presumed from the wording of the question, is imposed upon them with an imperial decree. As the law of the Sultan is final, the jurisconsult is left with no other option but to confirm the imperial will.

> Question: After the conquest of Crete, the Treasury prepared some lands from the state ones (*aradi'l-mamlaka*) and handed them over to some people to cultivate them. The cultivators were to give the *harac* to those entitled to it (*haracı tayin olunan erbabına*). However, although they had permission to possess the lands in this manner, they were not given the full ownership of the land (*rakabeleri temlik olunmamış olsa*). If they have been cultivating the land for many years and they have paid their taxes, is it still permissible to remove the land from their hands by imperial order and give it to those who offered to pay *harac-ı mukaseme* and *harac-ı muvazzaf* or the amount of *harac* as rent (*icare*)?
>
> Answer: Yes, it is.[123]

In this case, the questioner is wondering about the fate of lands which used to be *miri*. It seems that one of the loopholes of the 1670 *kanunname* is exactly this: what happens to lands which had no specific owner and were thus exploited by cultivators who now found themselves in the position of competing with outsiders prepared to pay heavier tax?

The second problem arose when infidels agreed to pay tribute and they were allowed to become claimants of land.

> Question: When the island of Crete was conquered, some lands did not have owners (*kimesneye temlik olunmayub*), and were thus seized as state lands (*aradi'l-mamlaka*). Some people gave an amount of *akçe*s to the Treasury and were given permission to have the usufruct, provided that they paid the *harac* to those entitled. If they have the usufruct for an extended period of time, and they have paid in full their money to the Treasury, is it permissible to remove the land from their hands with an imperial order and give it to infidels accepting *zimmet* [who agreed to pay] an estimated *harac-ı mukaseme* and *harac-ı muvazzaf*? Alternatively, can the Treasury give [the lands] to bidders by way of sharecropping (*müzaraa tariki ile*)?
>
> Answer: Yes.[124]

The questioner stressed that the cultivators were in possession for a long period and that they had complied with all their financial obligations, only to find themselves overridden by newcomers and sharecroppers prepared to pay rent in addition to taxes.

The resentment towards infidels agreeing to pay tribute and enter the market is apparent in the following *fetva* which, although it does not name Crete, describes the state of cultivation in areas of constant warfare.

> Question: Infidels invade an area of the *darü'l-islâm*. They pillage the neighbouring *miri* lands and they ruin those in possession of them (*mutasarrıfları olanlar*); and be-

123 Ibid.
124 Ibid.

cause of the continuous attacks of the infidels for 20 years the land was left vacant (*muattal*) and no agriculture was carried out. Then they made peace with Islam and fear was removed. The previous owners of the land returned. Are they allowed to possess (*zabt*) the land and own it as formerly?

Answer: If there is an imperial order, they can.[125]

Peasants expressed their resentment at the fact that those responsible for their losses were allowed to return and reclaim their lands.[126] Once more, the jurist admitted that the reinstatement of land could only happen with an imperial order.

The next two *fetva*s reflect the confusion when lands in Crete were given back to their owners as private properties.

Question: An area in the Abode of War was taken by force and the land in the hands of the *reaya* was confirmed. C*izye* was imposed on their heads and *harac* on their lands. After they had occupied the lands by inheritance for many years, some oppressors invaded the land and ruined the peasants. Because they did not cultivate their lands for three years, the *sipahi*s of the villages in return for an amount of money gave the lands to some Muslims by *tapu*. The *reaya* were given *istimalet* and returned to their places. Because their lands were inherited *mülk*, is it allowed to possess them as formerly and remove them from those who took them?

Answer: Yes.[127]

The efforts of *sipahi*s to retain their cash flow cannot override proprietary rights. In the *kanunname*, if lands are left fallow, they can be rented through *icare* or *müzaraa*. Giving them away by *tapu*, though, changes the status of the land.

Question: An area in the Abode of War was taken by force. The land in the hands of the *reaya* was confirmed. *Cizye* was imposed on their heads and *harac* on their lands. Is this land an evident/valid (*sarih*) *mülk*, like the rest of the *reaya*'s *mülk* properties?

Answer: Yes, it is.[128]

On this issue:

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125 Ibid., 1: 68.

126 In another variation of this *fetva*, the questioner is asking whether former enemies returning by *sulh* are allowed to reclaim their *tapu*s. The answer is the same: "Yes, by imperial order". In an interesting *fetva*, though, it is suggested that if the land was not left uncultivated, the jurists do not permit the former infidel to return to his rights; Question: In a region conquered by force, some of the lands were attached to a *timar* and were given to Amr. After Amr gave part of the land to Bekr by *tapu*, the enemy Beşr returned and he was pardoned (*aman ile*). If he agreed to pay tribute and claimed that before the conquest the land belonged to his father, can Beşr take the land back? Answer: No.

127 Ibid., 1: 69.

128 Ibid.

Question: If the *harac-ı muvazzaf* and the *harac-ı mukaseme* have been tied to a *timar* and the owners of this *mülk arazi* die, can the *erbab-ı timar* not allow the heirs to take possession but give them the land by *tapu*?

Answer: No, they cannot do so.[129]

The first *fetva* is a reflection of complications in the legal status of the land due to the Venetian-Ottoman war. The peasants have affirmed their hereditary rights on private landed property and have agreed to pay their taxes. The question is whether the *fetva* addresses the problem of ownership prior to or after the 1670 changes. The fact that the *sipahi* allocated the land by *tapu* instead of opting for a *müsakat* contract and the vague mention of *harac* as land tax without explicitly mentioning *harac-ı muvazzaf* and *harac-ı mukaseme* might indicate that the *fetva* antedates 1670. As we have seen, early *sicil* entries from Rethymno confirm that Christian peasants claimed their privately-owned land and disposed it at will. From the nature of the question it is obvious that the confusion of the newly introduced system was much greater than we have estimated. The *sipahi* was not familiar with the new categorisation of land ownership and still employed archaic methods to reduce his losses.

The following two *fetva*s are related to the taxation system before and after the 1670 changes.

Question: When the island of Crete was conquered, the land was registered and the *harac* was assessed at a low rate. While the amount of the *harac-ı muvazzaf* was about to be set according to the prescriptions of Hazreti Amr, may God be pleased with him, and the *harac-ı mukaseme* was to be determined as 1/2 or 1/3 or 1/4 or 1/5, an imperial order was issued; can [the taxes] be determined in the manner explained (*vech-i meşruh*)?

Answer: Yes.[130]

Once more, the final decision on tax rates is at the discretion of the Sultan. The amount of corruption in the estimation of land tax and its leasing created a number of problems solved by imperial intervention.

Question: When Crete was in the hands of fighting infidels, the army of Islam invaded and conquered some castles. Some of the infidels did not accept *zimmet* and fled to the enemy. Their lands were given as *mülk* by the *serdarasker* to some Muslims. Their annual *öşür* was made into a *mukataa* of a certain amount of *akçe*s, and they [the new owners] were given an illustrious *berat*. However, if the *mukataa* was much less (*noksan fahiş*) than the *öşür*, can the Treasury by imperial order refuse to take the *mukataa* and demand the *öşür*?

Answer: Yes, it can.[131]

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129 Ibid.
130 Ibid.
131 Ibid.

> Question: After the conquest of Crete, authorised *serdar*s and *defterdar*s sold by proxy some of the lands of *aradi'l mamlaka*. However, they [the lands] were sold below their marketable price (*gabn-i fahiş*). Because an imperial order arrived, lands sold below their marketable price were removed from the possession of the buyers and were to be sold at an equal [to similar properties] price. Can [the lands] be reclaimed, and sold at their proper price?
>
> Answer: Yes, they can.[132]

Through these *fetva*s it becomes obvious that the process of selling and taxing land on Crete was a complicated affair. Previous cultivators of lands resented the fact that new rivals – prepared to pay more – would have access to their lands. They were appalled that even former enemies could reclaim their rights by imperial orders, as the jurist repeatedly stressed. Local racketeers misappropriated taxes and lands, hindered only by the prompt intercession of the Sultan. *Sipahi*s, not yet re-educated to avoid treating *mülk* as *miri*, insisted on demanding *tapu* money. Finally, *fetva*s do not use the term *harac-ı mukataa* even once. This is proof of the uncanonical nature of the newly introduced tax. For the jurists of the end of the seventeenth century there are only two types of *harac* tax, *harac-ı muvazzaf* and *harac-ı mukaseme*.

In Lieu of a Conclusion

The scholarly discourse on seventeenth-century landholding in the Ottoman Empire is primarily focused on the emergence of big estates (*çiftlik*). Firstly, the underlying motive is an effort to explain eighteenth-century developments and the emergence of the *ayan*. Secondly, the *çiftlik* debate lies at the centre of questions relating to the mode of incorporation of the Ottoman Empire into the world capitalist system.[133] Çağlar Keyder has offered certain reasons which obstructed the functioning of big estates as large-scale commercial exploitations. One of them is the failure of the *ayan* to develop into the Western European model of an aristocracy of hereditary landownership.[134] According to this view, the *ayan* in an Ottoman 'absolutist' system were more content to exploit tax collection rather than agrarian production. Another reason proposed is the Ottoman legal context of land and property.[135] According to Keyder, the transformation of feudalism in

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132 Ibid. The use of the term *gabn-i fahiş* (*laesio enormis*, grave deception) is used to guarantee the retrieval of properties, since in the event of fraud there is little inclination to protect the victim unless grave deception was employed; see J. Schacht, *An Introduction to Islamic Law* (Oxford 1964), 117.

133 See, in particular, the dialogue between H. İnalcık and G. Veinstein on the *çiftlik* debate; H. İnalcık, 'The Emergence of Big Farms, *Çiftlik*s: State, Landlords, and Tenants', in Keyder and Tabak (eds), *Landholding and Commercial Agriculture*, 17-34, and Veinstein, 'On the *Çiftlik* Debate', 35-53.

134 Ç. Keyder, 'Introduction: Large-Scale Commercial Agriculture in the Ottoman Empire?' in idem and Tabak (eds), *Landholding and Commercial Agriculture*, 9.

135 Ibid., 10-11.

Europe applied Roman concepts of absolute property rights to feudal practice. Thus, conditional property of the lord and of the serfs contained the concept of 'private' property. Unlike Europe, absolute property was never recognised in the Ottoman Empire. The legal dictum of the Sultan enjoying the 'ownership' of the entire realm and the confiscation practice impaired the transition to capitalist property rights.

Notwithstanding the importance of this hypothesis as a starting-point, it would be important to look into empirical evidence especially for the transitional seventeenth century. Ebussuud's legal fiction of recognising the Sultan as the owner of *miri* lands – or, rather, the administrator of land on behalf of the Muslim community, to be precise – apart from a general theoretical recognition, found little appeal in practice. Muftis aware of the discrepancy between theory and practice disguised the sale of land by peasants under acceptable legal terms. As we have seen in the seventeenth-century *fetva*s, peasants sold their usufruct right recognised in Ottoman law as property right, rented it, and pledged it. The only difference of ownership of the usufruct from full proprietary rights was inheritance. Both taxes and the exploitation of land were frequently delegated, and the rights of peasants were protected if taxes were paid in full. Peasants employing labour is not an odd occurrence and janissaries – despite the efforts of the jurists – are included in the list of potential buyers of usufruct.[136] Therefore, although the system seems to be unaltered over centuries, new developments in land exploitation and taxation found their way into Ottoman jurisprudence.[137]

It is true that the seventeenth century was a period of adjustment to new realities. Transformation was perhaps 'painful' as it was enforced by the challenges of political and military upheaval. As Darling has argued, "the external threat posed by Iran or Austria was secondary to the internal danger that the interdependency between rulers and ruled would break down, cultivation would stop, soldiers would go unpaid, and the ruler's power would vanish".[138] Advice literature addressed this fear.[139] However, even in doing so, seventeenth-century writers were themselves part of the Empire-wide transformation; they were inclined to record popular as well as regal sentiments, as they reflected on contemporary developments.[140] Seventeenth-century subjects not only obeyed, but also questioned their sovereign. The preaching of the Kadızadelis, apart from being an extension of factional Istanbul politics, also functioned as a check and balance mechanism. Thus, even Murad IV, not a favourite of the Kadızadelis, nevertheless, implemented part

136 S. Faroqhi, 'Crisis and Change, 1590-1699', in İnalcık with Quataert (eds), *An Economic and Social History of the Ottoman Empire*, 447.

137 If we consider that law is more conservative than actual practice, then the inclusion of many new applications on land and its taxation in seventeenth-century collections is remarkable.

138 Darling, *Revenue-Raising and Legitimacy*, 294.

139 R. A. Abou-El-Haj, *Formation of the Modern State: The Ottoman Empire, Sixteenth to Eighteenth Centuries* (New York 1991).

140 R. Murphey, 'Ottoman Historical Writing in the Seventeenth Century: A Survey of the General Development of the Genre after the Reign of Sultan Ahmed I (1603-1617)', *ArchOtt*, 13 (1993-1994), 280.

of their programme.[141] Thus, the negotiation between subject and ruler already in place before takes a new form in the seventeenth century. Subjects use the judiciary more effectively, and the Ottoman courts are frequented by peasants in pursue of justice. Petitions are used as a weapon against the powerful. The transformation in legal consciousness is not limited only to judicial practice, though. Apart from Ebussuud, others among his contemporaries, such as Cöngi Efendi, attempted to alleviate the tension between the Sultan's *kanun* and the Holy Sharia. This is the underlying reason behind the increase in the responsibilities of the judge (*kadı*) and the ease of the jurist in commenting on previously exclusive *kanun* matters, including land tax. This is also the reason for the gradual inclusion of muftis' *fetva*s in the new-styled *kanunname*s from the time of Ahmed I onwards. Thus, from the early seventeenth century the incorporation of custom into the Sharia made the use of the term *kanun* obsolete until its use as an antonym to Sharia was finally prohibited in 1696.

These were the underlying trends when the two Cretan *kanunname*s of 1650 and 1670 were promulgated. When we examine the consequences of the introduction of freehold lands in Crete, we observe the same pattern following Ebussuud's stipulations. Even if the legal status of land is unchanged, Ottoman fiscal policy introduced a new, heavier rate of land tax. Machiel Kiel has recently published a *defter* for the small Aegean islands (TKGM105), contemporary to the *kanunname* of Crete, as it is dated 1670-1671. According to this text, the land tax traditionally paid in the islands as *maktu* is increased to the rate of 1/5, just as in Crete.[142] However, taxes characterised as uncanonical are still charged (i.e., the tax on pigs, *bad-ı hava* and *cürm-i cinayet*).[143] Only the *kanunname* of Mytilini island in 1709 follows closely the new terminology on the legal status of the land.[144]

It is certain that Crete was an experiment, even if not an Islamic one. The Islamic rhetoric might seem alien to us; however, given the advancement of bureaucratic proliferation in the seventeenth century the language of discourse would be more elaborated, nay formally Islamic. As we have seen, the *kanunname* of 1670, although it employs an Islamic terminology, follows the long fiscal Ottoman tradition of incorporating pre-conquest customary taxes. The use of the peculiar *harac-ı mukataa* term for vineyards and olive groves is acknowledged by the compiler – who is at pains to explain it – as a type of the canonical *harac* land tax. The complete lack of usage of the term in juristic opinions regarding the land system of Crete is evidence enough of the peculiarity of the term in Islamic law. These *fetva*s reflect the agony of transition from the *miri* exploita-

141 Zilfi, *The Politics of Piety*, 164.

142 M. Kiel, 'The Smaller Aegean Islands in the 16th-18th Centuries according to Ottoman Administrative Documents', in Davies and Davis (eds), *Between Venice and Istanbul*, 37, 44, 48-49.

143 Ibid., 49 (the taxation of the island of Kea). The term *harac-ı arazi* appears c. 1670 in the case of Patmos island; N. Vatin, 'Les Patmiotes, contribuables ottomans (XVe-XVIIe siècles)', *Turcica*, 38 (2006), 132-133.

144 One cannot but wonder whether the same profit-making crops were behind the proclamation of all land as freehold in Mytilini as well.

tion of land to *mülk*. Peasants found themselves more and more vulnerable to cultivators who were willing to pay not only tax at a higher rate (this is the main function of the legal fiction of *harac-ı muvazzaf* and *harac-ı mukaseme*), but also rent on lands held under the *icare* and *müzaraa* contracts. This trend is also apparent in the *kanunname*. The key point in the new system is intensification of the production of profit-making crops and maximisation of land revenue. The same trend we observe in Basra after 1669, whereupon commercial agricultural produce is similarly taxed and the status of the land is freehold. Additionally, the Islamic concept of rent incorporated in land tax reappears to address the new trends.

Like most of Ottoman experimentations, the change in the land system was based on custom and a strong sense of realism. As we have seen, even after the 1650s, when the *miri* land system was introduced, freehold land was sold in court. The exploitation of land continued the Venetian practice of sharecropping. Land taxes were collected by representatives or tax collectors. This reality was taken into account when after 1670 the Ottomans had to decide about the legal status of land. Their decision, though, was not disassociated from general trends in Ottoman taxation of land and its exploitation in the seventeenth century. Thus, Crete is a hybrid of changes which were to become more apparent in other parts of the Empire from the eighteenth century onwards.[145] If it was a successful experiment, though, is hard to tell. The rate of taxation in Crete was reduced a few years later and the *kadı* records frequently register peasants having trouble in meeting their financial burden. Naima reflects this difficulty in a story related to him by his father. When a financial department official asked Kara Mehmed Ağa, a veteran of the Cretan War, to pay a contribution to the Treasury, his response was revealing:

> Go back to your chief, the defterdar, and relate to him my response which is as follows: "I have come from the front in Crete. Aside from the ornament of gunpowder gloss and the sheen from oil-soaked lead shot I can boast no finery. We veterans know of such things as sable and ambergris only by report, we ourselves have never seen them. As for coin, we are able to procure the necessities of life only on borrowed money". Go take this our answer to your patron with our best greetings.[146]

In conclusion, we can safely say that Crete was an experiment in profit-making crops cultivated by sharecropping methods. The Ottomans transformed local custom vis-à-vis their needs. Moreover, while doing so, they were faithful to their own tradition as prescribed by Ebussuud a century earlier. The use of Islamic terms to articulate their needs was a reflection of the changes that the Empire was going through. Ultimately, though, we may argue that the Ottomans were caught once more between faith and cash.

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145 Ö. Ergenç, 'XVIII. Yüzyılda Osmanlı Anadolu'sunda Tarım Üretiminde Yeni Boyutlar: Muzara'a ve Muraba'a Sözleşmeleri', *Kebikeç*, 23 (2007), 129-139; K. Cuno, 'The Origins of Private Ownership of Land in Egypt: A Reappraisal', *IJMES*, 12/3 (1980), 245-275.

146 The translation is by Murphey, 'Ottoman Historical Writing', 300.