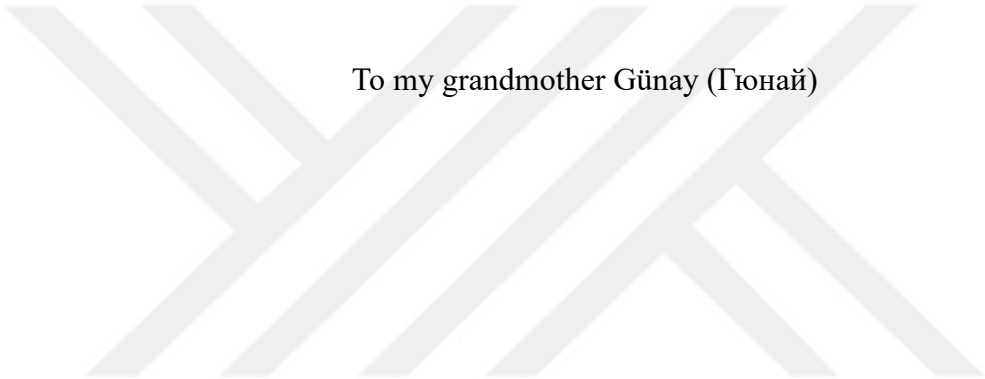


EARLY MODERN OTTOMAN POLITICS OF TIME: CUSTOM, TEMPORALITY,
AND THE MAKING OF *ÂDET-İ KADÎME*

A Master's Thesis

by
EFE CAN ZEYBEK

Department of
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İhsan Doğramacı Bilkent University
Ankara
June 2025



To my grandmother Güney (Гюнай)

EARLY MODERN OTTOMAN POLITICS OF TIME: CUSTOM, TEMPORALITY,
AND THE MAKING OF *‘ÂDET-İ KADÎME*

The Graduate School of Economics and Social Sciences
of
İhsan Doğramacı Bilkent University

by

EFE CAN ZEYBEK

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ANKARA

June 2025

EARLY MODERN OTTOMAN POLITICS OF TIME: CUSTOM, TEMPORALITY,
AND THE MAKING OF *‘ÂDET-İ KADÎME*

By Efe Can Zeybek

I certify that I have read this thesis and have found that it is fully adequate, in scope
and in quality, as a thesis for the degree of Master of History

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ABSTRACT

EARLY MODERN OTTOMAN POLITICS OF TIME: CUSTOM, TEMPORALITY, AND THE MAKING OF *ÂDET-İ KADÎME*

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June 2025

This thesis examines the temporality of *âdet-i kadîme* (ancient custom) as a lens through which to explore how time was conceptualized, invoked, and made meaningful—that is, how it was perceived—in the early modern Ottoman Empire, with a particular focus on the sixteenth and seventeenth centuries. Drawing on a diverse array of primary sources, including the registers of important affairs (*mühimme defterleri*), provincial law codes (*sancak kanunnâmeleri*), and judicial court records (*kadı sicilleri*), it conceptually and contextually analyzes temporal expressions such as “*kadîmden beri*” (“since ancient times”), “*olıgeldiği üzere*” (“as it has long continued”), and “*babam/atam/ceddim zamanı*” (“in the time of my father/ancestor”). While these expressions may appear vague, this study argues—through semantic and hermeneutic analysis—that they functioned as meaningful temporal signifiers that

both reflected and shaped how communities perceived the historical depth and temporality of customs.

The thesis contends that the temporal framing of *‘âdet-i kadîme*—the ways in which customary practices were anchored in an imagined past—played a key role not only in transforming evolving practices into accepted custom, but also in conferring normative legitimacy and authority upon them. Rather than viewing custom as a static inheritance, the study demonstrates that it was dynamically shaped, reproduced, contested, and instrumentalized through temporal language, which in turn helped structure both state-society and intra-societal relations. This temporal discourse, far from being merely descriptive, played an active role in the maintenance of the world order (*nizâm-ı ‘âlem*). Ultimately, it reveals how early modern Ottoman individuals and communities situated themselves within historical time—by framing their pasts, interpreting their present, and envisioning their futures—through the idioms and temporal logic of *‘âdet-i kadîme*.

Keywords: custom, *‘âdet-i kadîme*, time perception, temporality, order, *nizâm-ı ‘âlem*, early modern, Ottoman empire.

ÖZET

ERKEN MODERN OSMANLI'DA ZAMANIN POLİTİKASI: GELENEK, ZAMANSALLIK VE 'ÂDET-İ KADÎME'NİN İNŞASI

Zeybek, Efe Can

Yüksek Lisans, Tarih Bölümü

Tez Danışmanı: Dr. Öğr. Üyesi Nil Tekgül

Haziran 2025

Bu tez, erken modern Osmanlı İmparatorluğu'nda — özellikle on altıncı ve on yedinci yüzyıllarda — zamanın nasıl kavramsallaştırıldığını, nasıl kullanıma sokulduğunu ve nasıl anlamlandırıldığını, yani nasıl algılandığını incelemek amacıyla '*âdet-i kadîme*'nin zamansallığını bir mercekle ele almaktadır. Mühimme defterleri, sancak kânûnnâmeleri ve kadı sicilleri gibi çeşitli birincil kaynaklara dayanarak; “kadîmden berü”, “olıgeldiği üzere” ve “babam/atam/ceddim zamanı” gibi zamansal ifadeleri kavramsal ve bağlamsal olarak analiz etmektedir. Bu ifadeler yüzeyde belirsiz görünebilse de, tez — anlambilimsel ve hermenötik bir çözümleme yoluyla — bunların, toplulukların âdetlerin tarihsel derinliğini ve zamansallığını nasıl algıladığını

hem yansıtan hem de şekillendiren anlam yüklü zamansal göstergeler olarak işlev gördüğünü ileri sürmektedir.

Tez, '*âdet-i kadîme*'nin zamansal çerçevelenmesinin — yani âdetlerin hayali bir geçmişe nasıl dayandırıldığının — yalnızca değişen uygulamaların meşru âdete dönüşümünde değil, aynı zamanda onlara normatif meşruiyet ve otorite kazandırılmasında da önemli bir rol oynadığını savunmaktadır. Âdeti statik bir miras olarak görmek yerine, bu çalışma onun zamansal dil aracılığıyla dinamik biçimde şekillendiğini, yeniden üretildiğini, tartışıldığını ve araçsallaştırıldığını göstermektedir; bu da hem devlet-toplum ilişkilerini hem de toplum içi ilişkileri yapılandırmaya katkıda bulunmuştur. Bu zamansal söylem, yalnızca betimleyici olmakla kalmayıp, aynı zamanda *nizâm-ı 'âlem*'in korunmasında etkin bir rol oynamıştır. Sonuç olarak, erken modern Osmanlı birey ve topluluklarının kendi geçmişlerini nasıl çerçevelediklerini, mevcut zamanlarını nasıl yorumladıklarını ve geleceklerini nasıl tahayyül ettiklerini '*âdet-i kadîme*'nin ifade ve zamansal mantığı aracılığıyla tarihsel zaman içerisinde nasıl konumlandıklarını ortaya koymaktadır.

Anahtar Kelimeler: âdet, '*âdet-i kadîme*', zaman algısı, zamansallık, düzen, *nizâm-ı 'âlem*, erken modern, Osmanlı imparatorluğu

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The thesis you now hold in your hands is not only the culmination of a three-year Master's journey in the discipline of history, but also the product of a decade filled with joy, excitement, sorrow, achievement, and failure. It carries the imprint of every effort, every sleepless night, and every moment of perseverance that has shaped my academic and personal growth.

Throughout this journey, there were times when I felt overwhelmed—by uncertainty, by obstacles, by the thought that I might not be able to finish what I had started. There were moments when the path ahead seemed clouded by impossibilities, and the light at the end of the tunnel felt out of reach. Yet, I kept going. I refused to give up. I reminded myself that progress often comes not despite difficulties, but through them. For that reason, before extending my gratitude to others, I feel deeply compelled to thank myself—for not surrendering, for carrying on, and for seeing this journey through to the end.

Even if I may have failed to say it out loud throughout this exhausting process, I am genuinely proud of myself—for making it through despite everything and everyone, for carving this path with my own hands, and for the sacrifices I made along the way. This accomplishment, built step by step with perseverance and resilience, stands as a testament to what one can achieve through determination alone.

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CHAPTER I

INTRODUCTION

1.1 Background and Objectives

The present perception of time bears very little resemblance to that of other epochs.

—A.J. Gurevich

Time is one of the most omnipresent yet elusive elements of human experience. Dictionaries may define it as “the duration in which events occur or actions unfold,” but such definitions barely capture the depth and complexity of how we encounter and understand time in everyday life.¹ Although it is shared by all living beings, it remains resistant to any singular definition. Time is often spoken of as something that heals, rushes past, makes us forget, or offers redemption—capturing its ambivalent role as both a burden and a release. These expressions are not mere figures of speech; they reflect the fact that time is not simply measured but also lived, felt, and interpreted—and thus perceived differently across time and space. It is, therefore, never a singular or purely objective phenomenon, but a plurality of temporalities shaped by emotion, memory, expectation, and social experience.

¹ Merriam-Webster, s.v. “time,” accessed May 21, 2025, <https://www.merriam-webster.com/dictionary/time>.

However, despite this multiplicity, modernity has instituted a contrasting temporal regime. One of its defining features is the strict organization of life around measurable, segmented, and linear time. People schedule their days, years, and lives by dividing an entity they cannot control—time—into units: hours for work, moments for rest and sleep, intervals for leisure. Every aspect of modern daily life is synchronized with clocks and calendars, rendering time a seemingly objective, external structure that governs existence. Still, beyond this mechanical framework lies a more fluid dimension—one that resists standardization and emerges through lived experience.

The human being stands at the intersection of objective time and subjective temporality—interpreting, structuring, and living through both. As both the agent who segments time and the subject who experiences its fluidity, the individual plays a central role in making sense of temporal flow. Time, in this sense, is neither a wholly external nor a purely internal entity, but emerges through the interplay between structure and perception—between temporal norms and lived experience.

This ambivalence is captured evocatively by Ahmet Hamdi Tanpınar, who wrote:

“I am neither in time / Nor completely outside of it; / In the unbroken flow / Of a vast, seamless moment ...”²

Tanpınar’s lines reflect not simply a personal existential crisis, but express a deeper disorientation—a sense of being out of joint with the dominant temporal structures of modern life. What Tanpınar captures is a state of suspension—not entirely

² Ahmet Hamdi Tanpınar, *Bütün Şiirleri*, ed. İnci Enginün (İstanbul: Dergah Yayınları, 2022), 23. “*Ne içindeyim zamanın / Ne de büsbütün dışında / Yekpare, geniş bir anın / Parçalanmaz akışında ...*” All translations from languages other than English are the author’s own, unless otherwise indicated.

outside of time, but in a realm where temporal order no longer aligns with the reality of lived experience. In this sense, the poem points to a fundamental gap between the human experience of time and the frameworks devised to define or regulate it. It is precisely this unresolved tension that makes time a persistent object of philosophical and historical inquiry.

From a historian's perspective, these reflections raise a fundamental question: how was time understood, experienced, and conceptualized in earlier societies? What did "past," "present," and "future" mean in worlds shaped by ontologies and rhythms that, as Gurevich has argued, bore little resemblance to our modern temporal order? Acknowledging this difference in time perception between the modern and premodern world compels us to ask how early modern societies structured their temporal worlds—and what forms of meaning they generated through temporal frameworks that extended beyond the mechanical regularity of clocks and calendars, even when such instruments were present. Addressing these questions requires us not only to decenter modern assumptions about time as a neutral, measurable backdrop to human action, but also to resist reducing premodern temporality to mere rhythms, repetitions, and ritual cycles, or framing it too simplistically in opposition to linearity. Such reductions risk obscuring the conceptual richness and diversity of temporal thought in earlier societies.

Building on these ideas, this thesis does not seek to offer a comprehensive analysis of conceptions of time or temporality in the early modern Ottoman world. Rather, it focuses on one specific and historically grounded dimension that can illuminate how time was understood, structured, and made meaningful: the temporality of *'âdet-i kadîme* (ancient custom), particularly in the sixteenth and seventeenth centuries. This focus emerges from the premise that customs, as socially embedded

practices shaped over time, offer a unique lens through which the temporal consciousness of a society can be explored.

Customs, as products of collective memory, are social norms transmitted across generations, shaping individual behavior and sustaining social cohesion. Because they depend on continuity, repetition, and the preservation of shared memory, they are inherently temporal: time enables practices to become customs—that is, to acquire continuity, stability, and thus normative authority and enforceability. Customs also carry the accumulated weight of the past into the present, shaping not only how the present is interpreted but also how expectations about the future are formed. Therefore, interrogating the temporal nature of *‘âdet-i kadîme* allows us to examine how time was constructed in Ottoman society and to unpack the temporal coordinates—past, present, and future—through which Ottoman society made sense of its world.

Seen in this light, approaching *‘âdet-i kadîme* as an object of analysis offers a unique vantage point from which to understand how time was imagined, internalized, and instrumentalized across different strata of Ottoman society. Customs, as normative behavioral patterns emerging from within the society, not only reflect core social values but also embody the temporal logic through which those values operated. This is particularly evident in the recurrent invocation of ‘what has always been,’ which reveals how people conceived of “continuity” and “change.” Yet in the Ottoman context, customs operated not merely as social practices, but also as instruments of imperial governance once codified as *‘âdet-i kadîme* within the framework of customary law (*‘örfî hukûk*). Temporality played a critical role in this process both as a criterion for what counted as “ancient,” and more importantly as a medium through which the imperial center sought to govern the present by referencing the authority of the past. The socio-political order, once grounded in customs in the past, was imagined

to be sustained into the future through the continued invocation of *‘âdet-i kadîme*. In this sense, *‘âdet-i kadîme* became a key site where political power and temporal imagination converged. More than a rhetorical gesture, it functioned as a temporally grounded discursive framework through which the state and society articulated mutual obligations—drawing authority from a stable past to shape present entitlements. As such, the temporality of *‘âdet-i kadîme* stands at the intersection of social and political understandings of time, offering a compelling entry point into the temporal logic of early modern Ottoman governance.

In line with this objective, this thesis examines various discursive formulations that express the temporality of *‘âdet-i kadîme* (ancient custom), through semantic, conceptual, and contextual analysis. It aims to uncover the role of temporal language in the process through which local practices became *‘âdet-i kadîme*, how they acquired legitimacy and normative authority, and how such expressions were used to strengthen claims in disputes among different actors. In doing so, the study approaches the question of temporal perception in the sixteenth- and seventeenth-century Ottoman world through the lens of normative language and political discourse. These temporal expressions have often been treated as formulaic lexical bundles—repetitive and conventionalized phrases that appear across a range of legal and administrative documents. However, this thesis interrogates their function beyond formulaic usage, analyzing how such expressions operated as temporal signifiers embedded in collective memory and normative discourse. An analysis of the temporal expressions associated with *‘âdet-i kadîme* reveals frequent use of phrases that, at first glance, appear vague or esoteric—such as “*kadîmden beri*” (since ancient times), “*matakaddemden*” (from what preceded), “*ez-kadîm*” (from ancient origin), or “*olıgeldiği üzere*” (as it has been done). These expressions often point, intertextually

and meta-textually, to a notion of “time immemorial.” Alongside these, other temporal formulations also appear—such as “*babam zamânî*,” “*atam zamânî*,” “*ceddim zamânında*” (in my father’s/grandfather’s time), or more quantifiable markers like “*otuz yıldan berü*” (for the past thirty years) or “*kırk yıldan mütecâviz*” (since more than forty years)—which invoke generational memory and more concrete temporal ranges.

By problematizing such seemingly vague and intergenerational expressions, the thesis argues—through semantic, semiotic, and contextual analysis—that despite their surface-level ambiguity, they frequently imply discernible spans of time. However, these temporal spans rarely point to the actual historical origin of a custom. Rather, they reflect the moment at which the custom was inscribed into the collective memory of individuals, communities, and the state.

In this respect, the temporal rhetoric surrounding *‘âdet-i kadîme* provides critical insight into how time was perceived and invoked in early modern Ottoman society. These expressions also functioned as instruments of legitimation, conferring normative force on practices and giving rise to a discursive language of authority grounded in time. This language was not exclusive to the sultan or central bureaucracy—it was also employed by a variety of social groups to assert claims, preserve order, and resolve disputes in everyday life. Thus, the temporality of *‘âdet-i kadîme* was not an abstract conceptual framework but a living communicative medium embedded in the socio-political fabric of early modern Ottoman society. In this context, the examination of counter-concepts such as “*hâdis*” (novelty) and “*bid‘at*” (innovation) not only sheds light on the temporal dynamics behind the formation of custom, but also reveals how perceptions of continuity and change were constructed and contested. These notions of continuity and change, in turn, served as key

mechanisms for maintaining socio-political order, hence overarching the world order (*nizâm-ı âlem*) in the early modern Ottoman world. Ultimately, this thesis argues that tracing the temporal logic embedded in *âdet-i kadîme* provides a historically grounded understanding of how early modern Ottoman society conceptualized, structured, and employed time.

1.2 Sources, Methodology and Limitations

This thesis draws upon a diverse range of primary sources from the early modern Ottoman Empire in order to analyze the temporality and practical functioning of *âdet-i kadîme*. Given the normative and regulatory role that *âdet-i kadîme* played in early modern Ottoman law and administrative practice, legal-administrative documents constitute the core body of primary sources for this study. In particular, the *Mühimme Defterleri* (Registers of Important Affairs) housed in the Ottoman Archives of the Prime Ministry (BOA MD), which record imperial edicts frequently ordering the implementation of *âdet-i kadîme* in administrative affairs, form the primary source base of this thesis.

In addition to these, the seventeenth-century Istanbul judicial court registers (*kadı sicilleri*) published by Timur Kuran have been examined to explore how *âdet-i kadîme* discourse was instrumentalized in disputes among various social groups—including guilds, non-Muslim communities, and neighborhood residents.³

³ Timur Kuran, ed., *Mahkeme Kayıtları Işığında 17. Yüzyıl İstanbul'unda Sosyo-Ekonomik Yaşam*, 10 vols, (İstanbul: Türkiye İş Bankası Yayınları, 2010).

Furthermore, *sicils* from Jerusalem, as incorporated in the works of Amnon Cohen and Claudia Kicking, have been consulted through secondary literature to understand how temporal discourses of custom functioned in provincial contexts, even though direct access to the original documents was not available.⁴

A further crucial group of documents, particularly for tracing the codification of custom, is the provincial law codes (*sancak kânûnnâmeleri*) from the sixteenth century. These codes, drawn from the compilations published by Ömer Lütfi Barkan and Ahmet Akgündüz, have been consulted to trace how local practices were recorded as *‘âdet-i kadîme* and to identify the temporal expressions used in that process.⁵ Different versions of the same province’s *kânûnnâme* from various years, as well as those of geographically adjacent provinces, have been comparatively examined. Additionally, general imperial law codes such as *Kânûnnâme-i Âl-i ‘Osmân* compiled by Abdülkadir Özcan, and *Kânûnnâme-i Sultânî Ber Müceb-i ‘Örf-i ‘Osmânî* published by Halil İnalcık and Robert Anhegger, have also been utilized as primary sources.⁶ Furthermore, the *Adâletnâmeler* (justice decrees) edited by Halil İnalcık have been included to shed light on how the state conceptualized notions such as *hâdis* (novelty) and *bid‘at* (innovation), and to better understand how perceptions of continuity and change were framed and conceptualized in relation to *‘âdet-i kadîme*.⁷ Lastly, in recognition of the role that *‘âdet-i kadîme* played in maintaining the ideal of

⁴ Claudia Kicking, “The Significance of Customary Law in the Traditional Urban Market: A Contribution on the Administration of Justice in the Pre-modern Arab World” in *Shattering Tradition: Custom Law and the Individual in Muslim Mediterranean*, ed. Walter Dostal and Wolfgang Kraus (London: I.B. Tauris, 2005), 20–74; Amnon Cohen, *Jewish Life Under Islam* (Massachusetts, MA: Harvard University Press, 1984).

⁵ Ömer L. Barkan, *XV ve XVI inci Asırlarda Osmanlı İmparatorluğunda Ziraî Ekonominin Hukukî ve Mali Esasları*, vol. 1, *Kanunlar* (İstanbul: Burhaneddin Matbaası, 1943); Ahmet Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, vol. 1–10, (İstanbul: Fey Vakfı Yayınları, 1991).

⁶ Abdülkadir Özcan, ed., *Fatih Sultan Mehmed Atam Dedem Kanunu: Kanunnâme-i Âl-i Osman* (İstanbul: Kronik, 2020); Halil İnalcık and Robert Anhegger, *Kânûnnâme-i Sultânî Ber Müceb-i ‘Örf-i ‘Osmânî* (Ankara: TTK, 2000).

⁷ Halil İnalcık, “Adâletnâmeler,” *Belgeler* 35, vol. 2, no. 3-4 (1965): 49–145.

nizâm-ı âlem in Ottoman political thought, a variety of intellectual and political texts—including chronicles, mirror-for-princes (*nasihatnâme*), political treatises (*siyasetnâme*), and memorandums (*lâyihas*)—have also been evaluated as primary sources. These texts are examined to explore continuities and transformations between classical Islamic political theory and the early modern Ottoman intellectual world. Key concepts such as justice, social order, stability, legitimacy, and the sultan’s role are analyzed to understand how *âdet-i kadîme* was theoretically framed and justified within this normative universe.

The theoretical and methodological framework of this thesis is informed not only by Ottoman political and intellectual historiography but also by the fields of conceptual history and intellectual history more broadly. In particular, the German tradition of *Begriffsgeschichte* (as exemplified by Reinhart Koselleck) and the British tradition of intellectual history (notably J.G.A. Pocock and Quentin Skinner) have shaped the underlying questions and analytical orientations of this study.⁸ Although these methodologies are not applied in a strict or systematic manner—especially due to their focus on the modern era—their conceptual sensitivity and interpretive strategies have been adapted to the early modern Ottoman context. The thesis therefore does not adopt these approaches wholesale, but rather engages them critically and reflectively to inform its analysis.

In terms of methodology, temporal expressions encountered in primary sources have been systematically collected and organized into an initial dataset. These

⁸ Reinhart Koselleck, *The Practice of Conceptual History: Timing History, Spacing Concepts*, trans. Todd Presner, Kerstin Behnke, and Jobst Welge (Stanford, CA: Stanford University Press, 2002); Reinhart Koselleck, “Linguistic Change and History of Events” *Journal of Modern History* 61 (1989): 649-666; Reinhart Koselleck, “Begriffsgeschichte and Social History,” *Economy and Society* 11, no. 4 (1982): 409-27; Quentin Skinner, “Meaning and Understanding in the History of Ideas,” *History and Theory* 8, no. 1 (1969): 3-53.

expressions were then grouped according to their semantic and functional similarities. This grouping process was guided by Özer Ergenç's model, which classifies references to *'âdet-i kadîme* into three layers of temporal meaning.⁹ The resulting corpus was subjected to close reading and contextual analysis, incorporating semantic, semiotic, hermeneutic, and conceptual analytical tools. These expressions were thus examined not only for their lexical meanings but also for their rhetorical and normative functions within their historical contexts. However, due to the limited scope of this thesis, neither a macro-historical study of long-term conceptual transformation nor a systematic spatial comparison of regional variation was pursued. Instead, emphasis was placed on identifying discursive diversity and rhetorical patterns across documents produced in similar or adjacent periods.

The methodology employed in this study also brings with it certain limitations. Due to the scarcity of self-narrative sources in the early modern Ottoman context, it primarily relies on official archival documents produced by the central authority. Although such sources reflect the perspective of the state, they often contain references to the complaints, petitions, and conflicts that prompted the issuance of decrees. These moments provide indirect insights into the concerns, demands, and practices of broader society—though always mediated through the bureaucratic language. In particular, sources like the *Mühimme Defterleri* and *kadı sicilleri* are invaluable for reconstructing legal and administrative discourse. However, since they were produced for pragmatic governance rather than ethnographic or interpretive purposes, references to *'âdet-i kadîme* within them must be approached with caution and interpreted in their specific

⁹ Özer Ergenç, "Continuity and the Change in the Ottoman Early Modern Era: An Analysis of *'Adet-i Kadime* and *Hâdis*" in *Crafting History: Essays on the Ottoman World and Beyond in Honor of Cemal Kafadar*, ed. Rachel Goshgarian, Ilham Khuri-Makdisi, and Ali Yaycioğlu, 551–562, (Boston, MA: Academic Studies Press, 2023).

legal and socio-political context. Moreover, the study's capacity for geographical comparison has been limited by both the uneven availability of sources and the conceptual focus of the thesis. Nevertheless, efforts were made to include a wide variety of sources in order to show how *'âdet-i kadîme* was invoked across the empire and how temporal language functioned in diverse socio-political settings.

Finally, this thesis focuses on the period conventionally defined as the early modern era—roughly from the late fifteenth century to the early seventeenth century. While no rigid chronological boundaries have been imposed, the sources cluster within this range. Despite the profound transformations that occurred in Ottoman political, social, and conceptual structures from the late eighteenth century onwards, particularly under the influence of modernity, this study does not engage with the modern period. This exclusion should not be seen as a limitation but as a deliberate methodological choice that allows for a more focused and in-depth examination of a specific historical context. The thesis aims to offer a theoretically grounded foundation for future comparative and long-term studies on the temporality of custom in the Ottoman Empire.

1.3 Literature Review

This literature review explores the key intellectual and historiographical frameworks that inform this thesis's approach to *'âdet-i kadîme* as a temporally constructed legal and social phenomenon. It begins by surveying interdisciplinary theories of time developed in philosophy, sociology, and anthropology, which

collectively shift the focus from time as a universal metric to a culturally embedded and politically productive category. It then turns to developments in historiography that reconceptualize temporality as a contested dimension of historical experience—particularly through Marxist theory, the Annales School, and conceptual history. Building on this foundation, the review examines how Western legal and colonial historiography has treated temporality of custom. Finally, it considers the emerging body of scholarship on temporality in the Ottoman context, with particular emphasis on the semantic and discursive role of *‘âdet-i kadîme* in shaping normative order. While recent studies have made significant contributions to the Ottoman temporal culture, this thesis situates itself within—and extends—the smaller but growing field that explores the concept of time.

1.3.1 Interdisciplinary Approaches to Time

As a fundamental dimension of human experience, time has been theorized across multiple disciplines—including philosophy, sociology, and anthropology—each emphasizing different aspects of its structure and function. Among these disciplines, philosophy was one of the earliest to engage systematically with the nature of time, dating back to antiquity. Thinkers such as Plato and Aristotle laid the foundations for understanding time as a metaphysical and logical problem, while later philosophers—including G.W. Leibniz, Immanuel Kant, and G.W.F. Hegel—refined and transformed

these ideas during the early modern and Enlightenment periods.¹⁰ In the twentieth century, philosophers such as Henri Bergson, Edmund Husserl, and Martin Heidegger further expanded the inquiry by focusing on the phenomenological and existential dimensions of time.¹¹ Across these traditions, time has been treated as both ontological and epistemological: whether as linear progression (Aristotle), internal consciousness (St. Augustine and I. Kant), or the existential horizon of being (Husserl and Heidegger). These approaches conceptualized time not as a neutral background but as an intrinsic aspect of being— affective, unstable, and historically embedded. This philosophical tradition laid a foundation for later inquiries into how time shapes historical understanding and social meaning.

In sociology, time has often been treated as a socially constructed and institutionally mediated phenomenon, with early formulations grounded in the thought of Emile Durkheim.¹² Durkheim approached time not as a product of individual cognition, but as a collective framework generated by shared social practices.¹³ Building on this, scholars such as Henri Hubert, Marcel Mauss, Pitirim Sorokin, and Robert K. Merton, who examined how temporal perception is shaped by social structures and collective experience.¹⁴ Georges Gurvitch further emphasized the

¹⁰ Plato, *Timaeus*, trans. R. G. Bury, (Cambridge, MA: Harvard University Press, 1929), 74–79; Aristotle, *The Physics*, trans. Philip H. Wicksteed, vol. 1 (London: William Heinemann, 1968), 378–93; Immanuel Kant, *Critique of Pure Reason*, ed. Paul Guyer and Allen W. Wood, (Cambridge: Cambridge University Press, 1998), 47–50; G. W. F. Hegel, *Phenomenology of Spirit*, trans. A. V. Miller, (New York, NY: Oxford University Press, 1977), 492–93.

¹¹ Henri Bergson, *Time and Free Will: An Essay on the Immediate Data of Consciousness*, trans. F. L. Pogson (New York: Harper & Row, 1960), 90–91; 126–27, Edmund Husserl, *On the Phenomenology of the Consciousness of Internal Time (1893-1917)* (Dordrecht, Kluwer Academic Publishers, 1990), 4–9; Martin Heidegger, *Being and Time* (Albany: State University of New York Press, 1996), 304–33.

¹² Emile Durkheim, *The Elementary Forms of Religious Life*, trans. Carol Cosman (New York, NY: Oxford University Press, 2001), 12.

¹³ J. Šubr, *The Sociology of Time: A Critical Overview* (Cham, Palgrave Macmillan, 2021), 42.

¹⁴ See Pitirim A. Sorokin and Robert K. Merton, “Social Time: A Methodological and Functional Analysis,” *American Journal of Sociology* 42, no. 5 (1937): 615–29; Henri Hubert, *Essays on Time: A Brief Study of the Representation of Time in Religion and Magic*, ed. Robert Parkin (Oxford: Durkheim Press, 1999).

multiplicity of social times, showing how different societies—and even different social groups within a single society—operate according to distinct temporal logics.¹⁵ Norbert Elias later analyzed how the modern “disciplining” of time emerged in tandem with the processes of state formation, bureaucratic regulation, and social control.¹⁶ He underscored the role of temporality in structuring the routines and expectations of everyday life.¹⁷ Time, in this framework, became a resource to be measured, optimized, and deployed in service of rationalization and authority. Collectively, these sociological perspectives demonstrate that time is not a neutral or universal constant, but a historically contingent and socially embedded medium through which behavior is regulated, authority is exercised, and social life is coordinated.

Anthropologists, building on sociological and psychological theories, have approached time as a collective and culturally constructed phenomenon rooted in ritual, belief, and symbolism. Early anthropologists such as E.E. Evans-Pritchard, Claude Lévi-Strauss and Clifford Geertz demonstrated how different cultures structure temporality through narrative and religious practice.¹⁸ Moreover, early anthropological thought often portrayed non-Western societies as temporally different from the modern West—depicting them as cyclical, unchanging, or outside historical time. Scholars like Edward T. Hall and Edmund Leach reinforced this view by contrasting “traditional” temporalities with modern linear ones.¹⁹ In the late twentieth century, the “temporal

¹⁵ Georges Gurevitch, *The Spectrum of Social Time* (Dordrecht: Springer, 1964), 20; Georges Gurevitch, “Varieties of Social-time,” in *The Sociology of Time*, ed. John Hassard (New York, NY: Palgrave Macmillan, 1990), 67–73.

¹⁶ Norbert Elias, *Time: An Essay* (Oxford: Blackwell, 1992), 46–50.

¹⁷ Elias, *Time: An Essay*, 48–49.

¹⁸ See, E.E. Evans-Pritchard, *The Nuer: A Description of the Modes of Livelihood and Political Institutions of a Nilotic People* (Oxford: Clarendon, 1940), 94–107; Claude Lévi-Strauss, *Structural Anthropology* (New York, NY: Basic Books, 1963); Clifford Geertz, “Person, Time, and Conduct in Bali,” in *The Interpretation of Cultures* (New York: Basic Books, 1973), 360–411.

¹⁹ Edmund R. Leach, *Rethinking Anthropology* (London: Athlone Press, 1966), 125; Edward T. Hall, *The Dance of Life: The Other Dimension of Time* (New York, NY: Anchor Press, 1983), 43–51; Muhammad A. Z. Mughal, “The western and non-western dichotomization of time in anthropology,” *International Journal of Anthropology and Ethnology* 7, no. 1 (2023): 7.

turn” in anthropology—led by scholars like Alfred Gell, Nancy Munn, Johannes Fabian, and Barbara Adam—challenged abstract and Eurocentric views of time. They emphasized that temporality is shaped by social practices and power dynamics, especially in contexts where non-Western societies were seen as outside modern history.²⁰ These critiques shifted anthropology’s focus from universal models of time to the contested, situated ways in which temporality is constructed and used to uphold or challenge authority—a concern central to this thesis.

1.3.2 Time and Historiography: From Chronology to Conceptual Complexity

Although time is central to the discipline of history, historians were slow to examine its conceptual foundations.²¹ Until the mid-twentieth century, historical writing treated time primarily as a neutral and chronological framework for sequencing events and establishing causality. It was not viewed as an object of analysis in its own right. This approach is epitomized by Leopold von Ranke, who emphasized the empirical reconstruction of the past “as it actually happened” (*wie es eigentlich gewesen ist*).²² His focus on event-driven narrative and chronological order reinforced

²⁰ Barbara Adam, “Perceptions of Time,” in *Companion Encyclopedia of Anthropology*, ed. Tim Ingold (London; New York: Routledge, 1994), 508. See, Alfred Gell, *The Anthropology of Time: Cultural Constructions of Temporal Maps and Images* (New York, NY: Routledge, 2020), 149–66; Nancy D. Munn, “The Cultural Anthropology of Time: A Critical Essay,” *Annual Review of Anthropology* 21, (1992): 93–116; Johannes Fabian, *Time & The Other: How Anthropology Makes Its Object* (New York, NY: Columbia University Press, 2014), 37–69.

²¹ Lynn Hunt, *Measuring Time, Making History* (Budapest, Central European University Press, 2008), 17.

²² Juan Carlos Durán, “Linear Time Vs. Now Time: Towards A Critical Conception of Time in Marx, Benjamin and Rosenzweig,” (unpublished Master’s Thesis, University of Texas at El Paso, 2020), 12.

a linear, singular, and measurable conception of historical time—one that shaped mainstream historiography for decades.²³ A major shift occurred only when historians, influenced by developments in sociology and anthropology, began to explore temporality as a socially and culturally constructed phenomenon. These interdisciplinary insights helped reframe time not as a neutral backdrop to history, but as a contested and variable dimension of historical experience and narrative.

Later, Marxist historiography posed a major challenge to the positivist and linear conceptions of time by framing historical temporality as multilayered and socially constructed.²⁴ Rather than unfolding through smooth and cumulative progression, history was seen as shaped by the dialectical interplay of economic structures, social relations, and cultural forms—each operating on distinct temporal registers.²⁵ E.P. Thompson's *Time, Work-Discipline, and Industrial Capitalism* (1967) exemplifies this view. Analyzing the shift from agrarian to industrial society in Britain, Thompson showed how capitalist production introduced a new temporal regime—centered on punctuality, efficiency, and quantifiable labor time—that replaced earlier, task-based rhythms.²⁶ In doing so, Thompson revealed how time itself could become a tool of discipline and power under capitalist modernity.

In parallel, the Annales School introduced a stratified model of historical temporality. Influenced by Durkheimian sociology and Bergson's notion of *durée*, scholars like Marc Bloch, Lucien Febvre, and especially Fernand Braudel emphasized

²³ Durán, "Linear Time Vs. Now Time ...," 12. See, Ronald S. Stroud, "'Wie Es Eigentlich Gewesen' and Thucydides 2.48.3," *Hermes* 115, no. 3 (1987): 379–82.

²⁴ Karen Miller, "Karl Marx's Concept of Time: Its Validity for Contemporary Historical Interpretation," (Ph.D. thesis, Curtin University of Technology, 2001), 72–75.

²⁵ George Tomlinson, "Marx and the Concept of Historical Time," (Ph.D. thesis, Kingston University, 2015), 33–37.

²⁶ E.P. Thompson, "Time, Work Discipline and Industrial Capitalism," *Past and Present*, no. 38, (December, 1967), 60–69.

the coexistence of multiple temporal layers. Braudel's model of *la longue durée* distinguished between long-term structural patterns, medium-term socio-economic cycles, and short-term political events.²⁷ His concept of *histoire totale* reframed history as an interplay between deep structures and surface events, offering a more integrated framework than conventional narrative models.²⁸

In the mid-twentieth century, theorists such as Paul Ricoeur, Jacques Derrida, and Hayden White redirected attention to the role of language in shaping temporal understanding.²⁹ Rather than viewing time as a purely chronological or ontological construct, they emphasized its mediation through narrative and discourse. Ricoeur focused on the narrative structuring of time; Derrida's concept of *différance* revealed temporal deferral within meaning; and White examined how historical narratives produce coherence through *emplotment*.³⁰ Despite their differences, they shared the view that time is not simply represented in language but constructed by it. These ideas—though often abstract—provided a conceptual foundation for analyzing temporality as a contested semantic field.

Building on these insights, Reinhart Koselleck developed a historically grounded theory of time that brought linguistic and conceptual approaches into conversation with historical analysis. In *Futures Past* (1979), he proposed a model structured by the tension between the “space of experience” (*Erfahrungsraum*) and the “horizon of expectation” (*Erwartungshorizont*), suggesting that historical time emerges from the

²⁷ Fernand Braudel and Immanuel Wallerstein, “History and the Social Sciences: The Longue Durée,” *Review (Fernand Braudel Center)* 32, no. 2 (2009): 175–178; Siegfried Kracauer, “Time and History,” *History and Theory* 6 (1966): 67.

²⁸ Braudel and Wallerstein, “History and the Social Sciences ...,” 175–78.

²⁹ Hunt, *Measuring Time* ..., 21.

³⁰ Paul Ricoeur, *Time and Narrative*, vol. I (Chicago, IL: University of Chicago Press, 1984), 52, 125–130; Nick Vaughan-Williams, review of *Derrida on Time*, by Joanna Hodge, *Kantian Review* 14, no.1 (2009): 138–141. See also Kansteiner, “Hayden White's Critique of the Writing of History,” *History and Theory* 32, no. 3 (1993): 273–95.

interplay of memory and anticipation.³¹ His concept of *Sattelzeit* (ca. 1750–1850) marked a transformative period when political and social upheavals triggered shifts in the conceptual vocabulary of time.³² Rejecting linear and homogeneous models, Koselleck emphasized the multiplicity and semantic construction of time through language.³³ His tripartite model—structural, conjunctural, and event-based temporalities—provided historians with a conceptual toolkit for analyzing historical experience as layered and dynamic.

Recent historiographical developments have further extended this reconceptualization by emphasizing temporality’s cultural, affective, and discursive dimensions. François Hartog’s theory of “regimes of historicity” shifted attention to how societies articulate the relationship between past, present, and future, challenging the universality of historical time.³⁴ Postcolonial and global historians have likewise emphasized the coexistence of multiple, overlapping temporalities across cultures.³⁵ Meanwhile, theorists like Frank Ankersmit and Hans Ulrich Gumbrecht have turned to the “presence” of the past—foregrounding affect, rupture, and sensory experience over narrative structure.³⁶

Together, these approaches not only critique linear and Eurocentric notions of time but also provide tools for analyzing temporality as multiple, socially embedded, and

³¹ Reinhart Koselleck, *Futures Past: On the Semantics of Historical Time*, trans. Keith Tribe (New York, NY: Columbia University Press, 2004), 261–68.

³² Koselleck, *The Practice of ...*, 5; Keith Tribe “Translator’s Introduction,” in Koselleck, *Futures Past ...*, IX–XIV; Stefan-Ludwig Hoffmann and Sean Franzel, “Introduction: Translating Koselleck,” in Reinhart Koselleck, *Sediments of Time: On Possible Histories* (Stanford, CA: Stanford University Press, 2018), X–XVI.

³³ Koselleck, *The Practice of ...*, 5–6, 29–35; Hoffmann and Franzel, “Introduction: Translating Koselleck,” in Koselleck, *Sediments of Time ...*, XVI; Koselleck, *Futures Past ...*, 248.

³⁴ François Hartog, *Regimes of Historicity: Presentism and Experiences of Time*, trans. Saskya Brown (New York: Columbia University Press, 2015), 98–106.

³⁵ Helio Rebello, María Mudrovcic, and Achim Landwehr, “Times of History: An Overview of Time Studies Related to the Theory of History (Concepts, Issues, and Trends),” *História* 42 (2023): 7–10.

³⁶ Frank R. Ankersmit, “‘Presence’ and Myth,” *History and Theory* 45, no. 3 (2006): 336; Rebello, Mudrovcic, and Landwehr, “Times of History,” 5–6.

discursively constructed. This thesis builds on and contributes to that framework by examining *'âdet-i kadîme* not simply as an inherited legal norm, but as a temporally constructed discourse grounded in claims to continuity, antiquity, and collective memory. By analyzing how time was invoked, imagined, and contested in early modern Ottoman sources, the study brings Ottoman materials into dialogue with broader historiographical debates on temporality. In doing so, it highlights how a non-Western imperial context can extend and complicate current models of conceptual history and the politics of time.

1.3.3 Custom and Temporality in Western Historiography

Following the historiographical shift that reconceptualized time as a socially constructed and politically productive category, scholars have increasingly turned their attention to custom as one of the normative forms through which temporal authority is articulated. Traditionally associated with continuity and repetition, custom has long derived legitimacy from claims to temporal depth—whether framed as “since time immemorial” or rooted in an undefined past. However, recent scholarship challenges the notion that custom merely survives from antiquity. Instead, it presents custom as a rhetorical and temporal strategy—one that mobilizes the past to legitimize present arrangements.

Eric Hobsbawm's influential concept of "invented tradition" was foundational in this reconceptualization.³⁷ Rather than assuming that traditions are organically transmitted, Hobsbawm argued that they are often constructed in response to contemporary needs and then retrospectively anchored in fabricated antiquity to simulate continuity.³⁸ While his analysis focuses on modern European nation-building, the broader insight—that appeals to historical depth serve as tools of authority—has proven crucial across contexts. Building on this, E. P. Thompson emphasized plebeian agency in *Customs in Common* (1991), showing how custom was not simply imposed from above but actively contested, adapted, and defended from below.³⁹

This logic has been further explored in legal-historical scholarship. Stephanie Elsky, for instance, shows that in early modern England, the authority of custom in common law rested not on verifiable antiquity but on a strategically vague past. In *Custom, Common Law, and the Constitution* (2020), she demonstrates how custom functioned as a temporal and rhetorical device across both legal discourse and literary form—linking past and present while allowing for imaginative reinterpretation.⁴⁰ Similarly, Francesca Iurlaro's *The Invention of Custom* (2021) examines how early modern natural law and *ius gentium* theorists grounded custom not in empirical practice but in classical authority and theological reasoning.⁴¹ For Iurlaro, custom operated as a legal fiction: anchored in imagined antiquity but oriented toward present moral purposes.⁴² Ada Maria Kuskowski, meanwhile, challenges the premise that

³⁷ Eric Hobsbawm, "Introduction: Inventing Traditions," in *The Invention of Tradition*, ed. Eric Hobsbawm and Terence Ranger (Cambridge: Cambridge University Press, 2012), 1–2.

³⁸ Hobsbawm "Introduction: Inventing Traditions," in *The Invention of Tradition*, 1–14.

³⁹ E.P. Thompson, *Customs in Common* (New York, NY: The New Press, 1991), 3–15.

⁴⁰ Stephanie Elsky, *Custom, Common Law, and the Constitution of English Renaissance Literature* (Oxford, UK: Oxford University Press, 2020), 4–16.

⁴¹ Francesca Iurlaro, *The Invention of Custom: Natural Law and The Law of Nations, CA. 1500-1750* (New York, NY: Oxford University Press, 2021), 2–12.

⁴² Iurlaro, *The Invention of Custom ...*, 2–12.

medieval customary law was inherently ancient.⁴³ She argues that early lawbooks treated custom as current practice, and that its association with antiquity was a retrospective scholarly imposition shaped by revived Roman legal models.⁴⁴

The interplay between custom and temporality is further evident in colonial legal contexts, where appeals to antiquity intersected with contests over sovereignty, land, and jurisdiction. Tamar Herzog shows that many so-called “immemorial customs” in early modern Iberian legal practice were recent inventions, strategically presented as ancient to integrate local norms into Christian legal orders.⁴⁵ Bianca Premo, focusing on eighteenth-century Spanish America, introduces the notion of “*custom today*” to describe how Indigenous litigants deployed custom not as a static remnant, but as a presentist legal tool rooted in moral reasoning and recent precedent.⁴⁶ Yanna Yannakakis, in *Since Time Immemorial* (2023), similarly demonstrates how Indigenous communities in colonial Mexico appealed to long-standing communal practices to assert historical continuity and secure recognition in imperial courts.⁴⁷

Together, these studies mark a decisive shift in the historiography of custom—from viewing it as passive inheritance to understanding it as a temporal technology of legitimacy and governance. Whether in contexts of nation-state formation, early modern legal culture, or colonial adjudication, custom emerges as a discursive practice that generates the appearance of continuity to stabilize the present. Its power lies not in empirical antiquity, but in its rhetorical capacity to transform contingency into

⁴³ Ada Maria Kuskowski, “The Time of Custom and the Medieval Myth of Ancient Customary Law,” *Speculum* 99, no.1 (2024), 145–147.

⁴⁴ Kuskowski, “The Time of Custom . . .,” 145–147.

⁴⁵ Tamar Herzog, “Immemorial (and Native) Customs in Early Modernity: Europe and the Americas,” *Comparative Legal History* 9, no. 1 (2021): 3–5.

⁴⁶ Bianca Premo, “Custom Today: Temporality, Customary Law, and Indigenous Enlightenment,” *Hispanic American Historical Review* 94, no. 3 (August 1, 2014): 358–60.

⁴⁷ Yanna Yannakakis, *Since Time Immemorial: Native Custom and Law in Colonial Mexico* (Durham, NC: Duke University Press, 2023), 17–19.

tradition—embedding innovation within narratives of permanence. These historiographical interventions—treating custom as a temporal and rhetorical construct rather than a static legacy—offer a valuable conceptual lens for this study's analysis of *‘âdet-i kadîme* in the Ottoman Empire, where appeals to antiquity, continuity, and communal practice likewise functioned as mechanisms of legitimacy and governance.

1.3.4 Time and Temporality in Ottoman Historiography

Although scholarly engagement with time as a conceptual category gained momentum in Western historiography during the twentieth century, Ottoman historical studies have only recently begun to approach temporality as an object of critical inquiry. Most discussions of time in Ottoman historiography have remained limited to issues of chronology and periodization. Some of the earliest implicit engagements with temporality can be traced to debates surrounding the decline paradigm.⁴⁸ The idea of a “Golden Age,” often contrasted with narratives of degeneration, introduced a rudimentary temporal framework into Ottoman historical discourse—albeit one that remained undertheorized. This general silence on time as a conceptual problem has

⁴⁸ The “decline paradigm” started with Bernard Lewis’ article; see, Bernard Lewis, “Some Reflections on the Decline of the Ottoman Empire,” *Studia Islamica*, no. 9 (1958): 111–127. However, it should be noted that the “decline paradigm” has been put under harsh criticism. See also, Dana Sajdi, “Decline, its Discontents, and Ottoman Cultural History: By Way of Introduction,” in *Ottoman Tulips, Ottoman Coffee: Leisure and Lifestyle in the Eighteenth Century*, ed. Dana Sajdi (London: I.B. Taurus, 2007); Jane Hathaway, “Problems of Periodization in Ottoman History: The Fifteenth through the Eighteenth Centuries,” *Turkish Studies Association Bulletin* 20, no. 2 (1996): 25–31; Linda T. Darling, “Another Look at Periodization in Ottoman History,” *The Turkish Studies Association Journal* 26, no. 2 (2002): 19–28; Douglas A. Howard, “Ottoman Historiography and the Literature of ‘Decline’ of the Sixteenth and Seventeenth Centuries,” *Journal of Asian History* 22, no. 1 (1988): 52–77; Donald Quataert, “Ottoman History Writing and Changing Attitudes Towards the Notion of ‘Decline,’” *History Compass* 1 (January, 2003): 1–9; Cemal Kafadar, “The Question of Ottoman Decline,” *Harvard Middle East and Islamic Review* 4, no.1–2 (1997–1998): 30–75.

partly stemmed from the assumption that temporal perception is the domain of philosophy, sociology, or anthropology. As a result, the field still lacks sustained inquiry into how time shaped legal norms, political legitimacy, or collective memory—despite the empire’s operation across multiple temporal regimes, including religious calendars, ceremonial cycles, bureaucratic rhythms, and inherited customs.⁴⁹

Recent years have seen important, though partial, attempts to address this lacuna. Much of the emerging literature has focused on the material and institutional dimensions of timekeeping—such as calendars, clocks, and the regulation of daily life through offices like the *müneccimbaşılık* and *muvakkithâne*.⁵⁰ Among the leading

⁴⁹ For timekeeping tools and institutions in Ottoman Empire; see, Ekmeleddin İhsanoğlu and Feza Günergün, “Osmanlı Türkiyesinde ‘Alaturka Saat’ten’ Alafranga Saat’e Geçiş,” *X. Ulusal Astronomi Kongresi*, (İstanbul: İstanbul Üniversitesi Fen Fakültesi, Astronomi ve Uzay Bilimler Bölümü, 1996), 334–41; Klaus Kreiser, “Ottoman Clock Towers: A Preliminary Survey and Some General Remarks on Construction Dates, Sponsors, Locations and Functions,” in *Essays in Honour of Ekmeleddin İhsanoğlu*, ed. Mustafa Kaçar and Zeynep Durukal, vol. 1 (İstanbul: IRCICA, 2006): 543–56; Atilla Bir, “Zamânı Belirlemeye Yarayan Aletler,” in *Osmanlı İmparatorluğu Doruğu: 16. Yüzyıl Teknolojisi*, ed. Kâzım Geçen (İstanbul: Omas Ofset, 1999); Fırat Yaşa, “Moonstruck: Viewing the Moon in the Ottoman World of the Seventeenth Century,” *Medieval History Journal* 22, no.2 (2019): 343–366; Stephen P. Blake, *Time in Early Modern Islam: Calendar, Ceremony, and Chronology in the Safavid, Mughal and Ottoman Empires* (New York, NY: Cambridge University Press, 2013); Avner Wishnitzer, *Reading Clocks, Alla Turca: Time and Society in the Late Ottoman Empire* (Chicago and London: University of Chicago Press, 2015) and Uğur Tanyeli, “The Emergence of Modern Time Consciousness in the Islamic World and the Problematics of Spatial Perception,” in *Anytime*, ed. Cynthia Davidson, (Cambridge, MA: MIT Press, 1999); A. Tunç Şen and Cornell H. Fleischer, “Books on Astrology, Astronomical Tables, and Almanacs in the Library Inventory of Bayezid II,” in *Treasures of knowledge: an inventory of the Ottoman Palace Library (1502/3-1503/4)*, vol. 1, (Leiden, The Netherlands: Brill, 2019), 767–821.

⁵⁰ The word “*müneccim*” is derived from the root “*n-c-m*,” which means star (Turk. *yıldız*) in Arabic. *Müneccim* (*ehl-i nücûm*) was the name given to a person who deals with the science of the stars and the celestial bodies (*ilm-i nücûm*) and makes sense of their movements and their effects on human beings. However, it is essential to note that this search for meaning was analyzed with religious motivations. In addition, the study of the celestial bodies by the astrologers was not astronomical in itself; it was a study of the movements of the celestial bodies in order to understand the events that would determine human destiny (*kader*). The golden ratio (*altın oran*) is an essential term that expresses the aim of *müneccimlik*. Astrologers observe the movements of stars and celestial bodies to determine the most auspicious time to undertake an action, which they believe corresponds to the golden ratio. On the other hand, *muvakkithânes* found in mostly courtyards of mosques and masjids are places where time is determined by making various measurements with astronomical instruments to establish prayer times. Additionally, *muvakkithânes* also serve as centers for teaching mathematics and astronomy. See Aydın Sayılı, *The Observatory in Islam and Its Place in the General History of the Observatory* (Ankara: TTK, 1988); Ekmeleddin İhsanoğlu, “XVI. Yüzyılda Osmanlı Astronomisi ve Müesseseleri,” in *Osmanlı İmparatorluğu’nun Doruğu 16. Yüzyıl Teknolojisi*, ed. Kazım Çeçen (İstanbul: İSKİ, 1999); Salim Aydın, “Osmanlı Devleti’nde Müneccimbaşılık ve Müneccimbaşılar,” (Master’s Thesis, İstanbul University, 1993); Salim Aydın, *İstanbul Muvakkithaneleri ve Muvakkitleri* (İstanbul: İBB Yayınları, 2009); Ahmet Tunç Şen, “Astrology in The Service of the Empire: Knowledge, Prognostication, and Politics at the Ottoman Court, 1450s–1550s,” (unpublished Ph.D. thesis, University of Chicago, 2016); Ahmet Tunç Şen, “The Science and Politics of Chronology in Late Medieval and Early Modern Ottoman

contributions in this regard are Stephen P. Blake's *Time in Early Modern Islam*, Avner Wishnitzer's *Reading Clocks, Alla Turca*, and A. Tunç Şen's *Astrology in the Service of the Empire: Knowledge, Prognostication, and Politics at the Ottoman Court, 1450s–1550s*. Blake's comparative study of the Safavid, Mughal, and Ottoman empires highlights calendrical, ceremonial, and chronological systems as socially and politically embedded forms of organizing time. He interprets Islam as marking a rupture from ancient temporal regimes and emphasizes the role of ritual and dynasty in structuring historical consciousness.⁵¹ Wishnitzer, by contrast, examines the transformation of temporal experience in the nineteenth-century Ottoman Empire, focusing on the diffusion of mechanical clocks and Western timekeeping conventions.⁵² Rather than presenting modernization as a linear diffusion from Europe, he emphasizes processes of negotiation, resistance, and hybridization. Finally, A. Tunç Şen's work explores the role of astrology and astrologers in the intellectual, cultural, and political life of the fifteenth- and sixteenth-century Ottoman court. Drawing on a wide corpus—including *takvîms* (almanac-prognostications), horoscopes, instructional treatises, and *zîc* literature—Şen demonstrates how time was conceptualized, calculated, and politically instrumentalized within the Ottoman learned milieu.⁵³

While these studies have significantly enriched our understanding of how time was regulated, experienced, and symbolized in the Ottoman Empire, their analytical focus remains largely confined to the material, institutional, and cosmological

Almanacs,” in *Osmanlı'da İlmi Tarih*, ed. Zahir Atçıl, Ercüment Asil, and Cemal Atabaş (İstanbul: İSAR Yayınları, 2023), 47–71.

⁵¹ Stephen P. Blake, *Time in Early Modern Islam: Calendar, Ceremony, and Chronology in the Safavid, Mughal and Ottoman Empires* (New York, NY: Cambridge University Press, 2013), 2.

⁵² See Avner Wishnitzer, *Reading Clocks, Alla Turca: Time and Society in the Late Ottoman Empire* (Chicago and London: University of Chicago Press, 2015).

⁵³ Ahmet Tunç Şen, “Astrology in The Service of the Empire: Knowledge, Prognostication, and Politics at the Ottoman Court, 1450s–1550s,” (unpublished Ph.D. thesis, University of Chicago, 2016), xiv.

dimensions of temporality. Blake's emphasis on calendrical and ceremonial systems, Wishnitzer's analysis of mechanical timekeeping, and Şen's investigation into astrological knowledge all underscore how time operated as a sociopolitical and technical instrument. Yet none of these works engage substantively with the semantic and discursive construction of temporality—how time was invoked, formulated, and mobilized within legal and normative frameworks. This dimension is crucial for understanding how appeals to antiquity, continuity, or collective memory were deployed to legitimize authority and stabilize social order in the early modern Ottoman world.

In addition to these contributions, Maryam Patton's recent dissertation offers one of the most conceptually ambitious attempts to theorize early Ottoman temporality beyond the confines of mechanical or calendrical systems. Introducing the notion of a "bimodal temporal culture," Patton argues that Ottoman time consciousness was shaped by the coexistence of overlapping temporal frameworks—religious, cosmological, bureaucratic, and agricultural—rather than a unified or linear structure.⁵⁴ Drawing on diverse sources such as astrological treatises, *melhemes*, vernacular religious texts, and historical almanacs, she emphasizes that time in the early Ottoman world was experienced as a convergence of natural cycles and metaphysical rhythms. Although her analysis does not extend into legal or administrative discourse, it provides a valuable model for understanding Ottoman temporality as embedded in social practice and shaped by plural epistemologies. In this respect, Patton's work resonates with broader historiographical trends that approach temporality as a contested terrain of meaning.

⁵⁴ See Maryam Patton, "Guarding Against Heedlessness: Time and Temporality Among the Early Ottomans," (unpublished Ph.D. thesis, Harvard University, 2024).

Alongside the limited body of scholarship that focuses on the material and institutional dimensions of time in the Ottoman context, two studies—by Özer Ergenç and Hakan Karateke—stand out for examining the sociopolitical and discursive functions of custom as a temporal construct tied to legitimacy, continuity, and moral order, albeit from different angles. Ergenç approaches *‘âdet-i kadîme* as a socially embedded and lived structure that shaped early modern Ottoman communal life.⁵⁵ Drawing on court records and imperial decrees, he conceptualizes custom not merely as legal precedent or ceremonial relics, but as a form of popular culture sustained through collective memory and everyday practice.⁵⁶ At the core of his analysis is a bidirectional dynamic: while imperial regulations shaped local behavior, vernacular practice itself contributed to the formation and reinforcement of normative frameworks.⁵⁷ Through contextual and conceptual analysis of temporally charged expressions—such as “since old times” (*eskiden berü*), “since ancient times” (*kadîmden berü*), and “as it has long been practiced” (*oligeldiği üzere*)—alongside religious-legal categories like *hâdis* (novelty) and *bid‘at* (innovation), he investigates how certain practices came to be recognized as *‘âdet-i kadîme* and examines the temporal conditions through which they acquired this status.⁵⁸

In contrast, Karateke offers a theoretical approach to *‘âdet-i kadîme* as a rhetorical and ideological device mobilized to produce legitimacy during periods of transformation—especially in the nineteenth century.⁵⁹ He argues that the authority of custom rested not on demonstrable antiquity, but on the strategic invocation of

⁵⁵ Ergenç, “Continuity and Change ...,” 551–52.

⁵⁶ Ergenç, “Continuity and Change ...,” 552–57.

⁵⁷ Ergenç, “Continuity and Change ...,” 553.

⁵⁸ Ergenç, “Continuity and Change ...,” 553–61.

⁵⁹ Hakan Karateke, “Osmanlı Devletinde “Adet-i Kadime” Üstüne,” *Journal of Turkish Studies* 23 (1999): 122.

“ancient” (*kadîm*) as a symbolically potent marker of historical continuity.⁶⁰ His analysis aligns with Western historiography on invented tradition, particularly Eric Hobsbawm’s notion of retrospective legitimation. Focusing on ceremonial reforms and shifting legal language, Karateke introduces the notion of the “new ancient” (*yenî kadîm*) to describe how newly introduced or modified practices were framed as timeless traditions to secure social and political acceptance.⁶¹ In this framework, ruptures were rhetorically embedded within narratives of continuity.⁶² By revealing how custom was discursively constructed to shape perceptions of the past, Karateke opens a new analytical space for exploring the semantic dimensions of temporality in Ottoman political thought—a direction this thesis further develops in the early modern context.

Yet despite their valuable insights, both studies leave important dimensions of the temporal logic of *‘âdet-i kadîme* underexplored. Ergenç’s analysis, while richly grounded in archival sources and attentive to the lived and participatory nature of custom, stops short of offering a systematic theorization of temporality itself. His focus remains primarily on how customs are maintained and transmitted socially, rather than how temporal expressions function semantically or discursively. Similarly, Karateke’s study, while conceptually stimulating, does not fully interrogate the underlying operations of time that make such rhetorical strategies effective. Moreover, his analysis is largely theoretical and lacks direct engagement with archival materials, focusing predominantly on the late Ottoman period. By concentrating on moments of rupture and reform, it largely sidelines the *longue durée* of normative formation and the more subtle ways in which temporality shaped legal and administrative discourse in earlier

⁶⁰ Karateke, “Osmanlı Devletinde ...,” 119.

⁶¹ Karateke, “Osmanlı Devletinde ...,” 119–20.

⁶² Karateke, “Osmanlı Devletinde ...,” 122.

periods. In this sense, while both scholars illuminate the relationship between custom and authority, neither fully addresses the semantic architecture of temporality—how time is made meaningful, what roles it plays, how it is negotiated, and how it gains normative force through language. This thesis seeks to fill that gap by examining the early modern Ottoman Empire as a site where temporal claims—particularly those surrounding *‘âdet-i kadîme*—were not only historically situated but discursively constructed and contested within legal and political registers. In doing so, it aims to offer a new perspective on the politics of time and custom in Islamic imperial governance.

1.4 Chapter Outline

This thesis is organized into four chapters, each of which builds upon the preceding discussions to develop a multi-dimensional analysis of *‘âdet-i kadîme* as a temporally constructed and politically mobilized discourse in the early modern Ottoman Empire.

The first main chapter, Chapter II, establishes the ideological and intellectual foundations of *nizâm-ı ‘âlem* as a central organizing principle in early modern Ottoman political thought. Drawing on classical Islamic political philosophy, ethical traditions, and Ottoman advice literature, the chapter examines how world order was conceptualized not only as a reflection of divine harmony but as a political and moral responsibility vested in the ruler. It analyzes how the sultan’s authority was framed through interconnected notions of justice, obedience, trust, and benevolence,

emphasizing the ruler's role in preserving cosmic balance, social stability, and moral rectitude. By tracing both the philosophical and administrative dimensions of *nizâm-ı âlem*, the chapter lays the conceptual groundwork for the subsequent analysis of how custom and temporality functioned within the Ottoman legal and political imagination.

Chapter III turns to the legal and institutional architecture through which the Ottoman state incorporated local customs into its normative order. Building on the ideal of *nizâm-ı âlem*, the chapter examines how the Ottoman legal system integrated *sharia*, imperial legislation (*örfî hukuk*), and juristic interpretation to address the demands of governance. In particular, it explores how the sultan's legislative authority operated across domains where *sharia* was indeterminate, enabling the formulation of regulations that preserved social order, secured public welfare, and sustained administrative coherence. The chapter further investigates how custom was granted normative authority within this framework and how its incorporation was reconciled with *sharia*. In doing so, the chapter sheds light on the flexible legal synthesis that allowed the Ottoman state to maintain both doctrinal legitimacy and pragmatic adaptability in the pursuit of *nizâm-ı âlem*.

Chapter IV focuses on the normative role of custom (*âdet*) in sustaining *nizâm-ı âlem*. It examines how the Ottoman legal system incorporated custom as both a stabilizing and adaptable element of governance. It explores how certain local practices were evaluated, recognized, and gradually institutionalized as binding custom through administrative, legal, and discursive mechanisms. Special emphasis is placed on *âdet-i kadîme* as a concept situated at the intersection of imperial legislation, communal practice, and political legitimacy. Drawing on a range of archival sources, the chapter analyzes how custom emerged from the dynamic

interplay between state authority and local social norms, and how it became socially embedded, culturally transmitted, and normatively reinforced across generations.

Chapter V turns to the temporality of *‘âdet-i kadîme*. It investigates how custom acquired authority through temporal expressions such as “*kadîmden berî*” and “*oligeldiği üzere*,” and how ambiguity, continuity, and appeals to antiquity contributed to the legitimizing power of custom. The chapter is structured around three analytical dimensions: (1) the semantic construction of longevity and continuity; (2) the validation of custom through communal consensus and imperial recognition; and (3) the strategic invocation of custom to legitimize change, resist reform, or embed innovation within narratives of tradition. In doing so, the chapter aims to uncover the discursive mechanisms through which temporality operated in Ottoman legal and political thought.

CHAPTER II

THE POLITICAL COSMOLOGY OF *NİZÂM-I ÂLEM*: FOUNDATIONS OF ORDER, SOVEREIGNTY, AND JUSTICE IN OTTOMAN THOUGHT

2.1 Ideological Foundations of *Nizâm-ı Âlem* in Islamic Philosophy & Ottoman Thought

This section explores the ideological foundations and evolving interpretations of *nizâm-ı âlem* (world order) in Islamic and Ottoman thought, situating the concept within a broader intellectual tradition that spans theology, philosophy, and political theory. Tracing its roots from classical Islamic philosophy to early modern Ottoman intellectual production, the discussion aims to illuminate how *nizâm-ı âlem* emerged as a comprehensive framework that connected cosmic harmony with political authority and social structure. While earlier Muslim thinkers emphasized the divine origin and metaphysical significance of world order, Ottoman scholars extended and transformed the concept in response to the administrative and social challenges of their time. As such, *nizâm-ı âlem* functioned not only as a theological ideal but also as a practical doctrine for regulating hierarchy, ensuring stability, and defining the boundaries of legitimate social and political conduct. This section critically examines how Ottoman intellectuals conceptualized the relationship between divine will, social hierarchy, and political responsibility.

The concept of *nizâm-ı âlem* represents a fundamental doctrine in Islamic philosophy, indicating the universe's inherent perfect balance and systematic order. The term *nizâm*, derived from the Arabic verb *nazama*, meaning “to line up” or “to

arrange,” is commonly translated as “order” or “regulation” in English.⁶³ Although *nizâm* does not explicitly appear in the Qur’an, numerous verses and the hadiths implicitly affirm the existence of divinely ordained cosmic order.⁶⁴ Within this framework, God is conceived not only as the creator of the universe but also as the architect of its balance and coherence. In contrast, the term ‘*âlem*, which appears 73 times in the Qur’an, denotes the universe, cosmos, world or community.⁶⁵ Etymologically, “‘*âlem*” derives from the Arabic root “‘*ilm*” (to know something) or “‘*alm*” (an evidence or indicator of something), suggesting that the universe serves as a manifestation of God’s existence, revealing His presence through its ordered structure.⁶⁶ Consequently, the notion of *nizâm-ı ‘âlem* encapsulates this divinely instituted harmony, uniting all creation under a cohesive equilibrium.

In Islamic philosophy, the concept of world order occupies a central role, as the perceived order of the universe serves as both evidence of God’s existence and a reflection of the ideal, “perfect” world He has created.⁶⁷ Numerous Muslim

⁶³ *Nişanyan Sözlük*, s.v. “Nizam,” accessed January 7, 2025, <https://www.nisanyansozluk.com/kelime/nizam>.

⁶⁴ In the Qur’an (25:2) “God [Allah] is the One to Whom belongs the kingdom of the heavens and the earth, who has never had any offspring, nor does He have a partner in governing the kingdom. He has created everything, ordaining it precisely.” Qur’an (54:49) “Indeed, we have created everything, perfectly preordained.” Qur’an (20:50) “He answered, “Our Lord is the One Who has given everything its distinctive form, then guided it.”” Qur’an (87:2-3) “Who created and perfectly fashioned all, and Who ordained precisely and inspired accordingly...” Quran (2:164) “Indeed, in the creation of the heavens and the earth; the alternation of the day and the night; the ships that sail the sea for the benefit of humanity; the rain sent down by Allah from the skies, reviving the earth after its death; the scattering of all kinds of creatures throughout; the shifting of the winds; and the clouds drifting between the heavens and the earth—in all of this—are surely signs for people of understanding.” The Qur’an (67:3) “He is the One Who created seven heavens, one above the other. You will never see any imperfection in the creation of the Most Compassionate. So, look again: do you see any flaws?”

⁶⁵ Süleyman Hayri Bolay, “Âlem,” *TDV İslâm Ansiklopedisi*, accessed January 7, 2025, <https://islamansiklopedisi.org.tr/alem#1>. See Qur’an (21:107) “We have sent you [the Prophet] only as a mercy for the whole world.”

⁶⁶ Bolay, “Âlem.” See Qur’an (45:3-5) “Surely in [the creation of] the heavens and the earth are signs for the believers. And in your own creation, and whatever living beings He dispersed, are signs for people of sure faith. And [in] the alternation of the day and the night, the provision sent down from the skies by Allah—reviving the earth after its death—and the shifting of the winds, are signs for people of understanding.

⁶⁷ Qur’an (67:3-4) “[He is the One] Who created seven heavens, one above the other. You will never see any imperfection in the creation of the Most Compassionate. So, look again: do you see any flaws? Then look again and again—your sight will return frustrated and weary.” Qur’an (3:190-191) “Indeed, in the

philosophers have examined the concept of order (*nizâm*) within the framework of God's existence and unity (*tevhîd*), exploring its implications across philosophy, theology, and cosmology in their works. Prominent scholars, including al-Jahiz (d. 869) al-Kindî (d. 873), al-Farabî (d. 950/51), Ibn Sînâ (d. 1037), Ibn Hazm (d. 1064) and al-Ghazzâlî (d.1111) engaged extensively with the notion of a divinely instituted order. For instance, al-Ghazzâlî argues that the universe represents the highest conceivable form of perfection, stating, “a better, more flawless and more perfect is not possible.”⁶⁸ Similarly, later thinkers, such as Ibn Rusd (d. 1198) build upon these foundations and further elaborated the concept of order. He emphasizes that the universe exhibits a perfect balance and harmony, discernible through the natural world, and contended that such an order could not have arisen by chance.⁶⁹

While these philosophical and theological explorations emphasized a divinely ordained cosmic order, some other Muslim intellectuals and political theorists extended the concept of *nizâm-ı âlem* to questions of governance, justice, and societal stability. Al-Shaybani (d. 805), an Arab-Muslim jurist and a disciple of Abu Hanifa, offered a distinctive interpretation of the concept of world order. He posited that, although the broader cosmos (macrocosm) is divinely created, the human sphere (microcosm) emerges from human agency, its persistence reliant on sustained effort.⁷⁰

According to Tahsin Görgün, al-Shaybani's use of the term “*kesb*”—which signifies human endeavor and active engagement with work—reflects his conviction that

creation of the heavens and the earth and the alternation of the day and night there are signs for people of reason. [They are] those who remember Allah while standing, sitting, and lying on their sides, and reflect on the creation of the heavens and the earth [and pray], “Our Lord! You have not created [all of] this without purpose. Glory be to You! Protect us from the torment of the Fire.”

⁶⁸ Imam Gazali, *Îhyâ u Ulûmi 'd-Din*, trans. Ahmet Serdaroglu, vol. 4 (Istanbul: Bedir Yayınevi, 2002), 474.

⁶⁹ Eyüp Akşit, “İbn Rüşd’de Tanrı-Âlem İlişkisi,” (unpublished Master’s thesis, Dokuz Eylül Üniversitesi, 2002), 6–28.

⁷⁰ Tahsin Görgün, “Osmanlı’da Nizam-ı Alem Fikri ve Kaynakları Üzerine Bazı Notlar,” *İslâmî Araştırmalar Dergisi* 13, no.2 (2000): 184.

maintaining of this human-formed order is a fundamental responsibility.⁷¹ Thus, al-Shaybani's conception of *nizâm-ı âlem* envisions a structured and human-preserved system, intricately connected to, yet distinct from, the divinely established natural world. In line with this, later Islamic scholars such as al-Îjî (d. 1355), al-Taftazânî (d. 1390), and al-Jurjânî (d. 1413) further elaborated the concept of *nizâm-ı âlem*, emphasizing the interplay between divine law, human agency, and societal harmony. On the one hand, al-Îjî argued that world order is contingent upon individuals fulfilling their designated roles and responsibilities, asserting that both world order inherently depend on human accountability.⁷² On the other hand, al-Taftazânî framed *nizâm-ı âlem* as an overarching structure grounded in *sharia*, which he regarded as the bedrock of justice and social cohesion. He stressed that this divine framework, instituted by the Prophet Muhammad and upheld by scholars (*ulemâ*), fosters harmony by regulating individual conduct and structuring collective life.⁷³ This integrated and divinely inspired conception of societal order profoundly influenced Ottoman scholars, shaping their understanding of governance, affirming the state's responsibility in upholding both legal and moral order, and establishing *nizâm-ı âlem* as a foundational principle of political thought.

The political thought of the classical Ottoman period developed into a distinct intellectual tradition, shaped by the synthesis of earlier philosophical and theological legacies with the empire's evolving administrative and political realities.⁷⁴ Within this

⁷¹ Görgün, "Osmanlı'da Nizam-ı Alem Fikri ...," 184.

⁷² Görgün, "Osmanlı'da Nizam-ı Alem Fikri ...," 185.

⁷³ Görgün, "Osmanlı'da Nizam-ı Alem Fikri ...," 185–86.

⁷⁴ The term "Ottoman Classical Age" refers to the period between the fourteenth and the end of the sixteenth centuries, during which the Ottoman Empire developed a centralized bureaucratic and military system, codified legal and administrative structures, and reached its territorial and cultural zenith. The concept was popularized by Halil İnalcık, who described this era as a time of institutional consolidation and imperial maturity. See Halil İnalcık, *The Ottoman Empire: The Classical Age, 1300–1600* (London: Phoenix, 1995). Moreover, the term "political thought" in the Ottoman context encompasses a broad spectrum of writings, ranging from philosophical reflections on governance to practical treatises on administration and statecraft. Unlike medieval Islamic political philosophy, Ottoman political thinkers

context, Ottoman intellectuals, explored the notion of *nizâm-ı âlem* as an organizing principle that governed both the cosmic order and human society. However, rather than simply adopting earlier formulations, they expanded and refined the concept to address the philosophy of imperial administration and social harmony. Therefore, in Ottoman intellectual thought, *nizâm-ı âlem* was envisioned as a multidimensional framework encompassing physical, social, and moral orders, all of which were interconnected and essential for maintaining stability and harmony. This comprehensive conception of order is clearly illustrated in the work of Tursun Beg (d. 1499), a historian and statesman of Mehmed II's era (r. 1444–46; 1451–80), who articulated the idea through the phrase “*nizâm-ı âlem-i zâhir u bâtın*” (“the outward and inward order of the world”).⁷⁵ As Görgün observes, the conjunction of “*zâhir*” (apparent/external) and “*bâtın*” (hidden/internal) in Tursun Beg's formulation underscores the intrinsic connection between physical structures and moral-spiritual dimensions, highlighting the dual nature of order as both tangible and metaphysical.⁷⁶ Similarly, Gottfried Hagen argues that, Tursun Beg's “*nizâm-ı âlem-i zâhir*” pertains to the worldly, social, and political order, whereas “*nizâm-ı âlem-i bâtın*” encompasses the divinely ordained order, which integrates both temporal and spiritual dimensions, ultimately guiding individuals toward fulfillment in both this life and the hereafter.⁷⁷ As a result, through this conceptual framework, Ottoman scholars framed the preservation of order as not

did not always articulate systematic theories of government but rather engaged in pragmatic discussions on state organization, justice, and social order. For a detailed examination of the scope and characteristics of Ottoman political thought, see Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton, NJ: Princeton University Press, 2018); Marinos Sariyannis, *A History of Ottoman Political Thought up to the Early Nineteenth Century* (Leiden, The Netherlands: Brill, 2019); Nedim Nomer and Kaya Şahin, eds., *Histories of Political Thought in the Ottoman World* (New York, NY: Oxford University Press, 2024).

⁷⁵ Tursun Bey, *Tarih-i Ebü'l-Feth*, ed. Mertol Tulum (İstanbul: Baha Matbaası, 1977), 12. “... *nizâm-ı âlem-i zâhir ü bâtın için, ilâ yevmi'l- kıyâm, kâffe-i enâm üzre kâfidür...*”

⁷⁶ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12; Görgün, “Osmanlı'da Nizam-ı Alem Fikri ...,” 182.

⁷⁷ Gottfried Hagen, “Legitimacy and World Order,” in *Legitimizing the Order: The Ottoman Rhetoric of State Power*, ed. Hakan T. Karateke and Maurus Reinkowski (Leiden, The Netherlands: Brill, 2005), 69.

only a cosmic and theological obligation but also a fundamental socio-political necessity.

Hagen argues that the concept of *nizâm-ı âlem* embodies a vision of order that transcends a specific dynasty, region, or historical period, positioning it as a universally valid framework for governance and social harmony.⁷⁸ I suggest that despite its broader implications, *nizâm-ı âlem* is often narrowly interpreted as being solely concerned with the perpetuity of the state (*devletin bekâsı*), disregarding its deeper social, political and ethical dimensions. Instead, Ottoman intellectuals maintained that the stability of the state was not an end in itself but rather a necessary means for realizing *nizâm-ı âlem*.⁷⁹ In Tursun Beg's formulation, the state and its ruler existed to uphold *nizâm-ı âlem*, rather than *nizâm-ı âlem* serving as a justification for the state's existence.⁸⁰ Thus, while maintaining political order was a necessary, it was not sufficient on its own to realize *nizâm-ı âlem* in its fullest sense. In a similar vein, while ensuring social order did not directly equate to *nizâm-ı âlem*, its maintenance was regarded as one part of a broader framework it represented.

However, within the Ottoman context, the concept of *nizâm-ı âlem* played a central role in shaping social order and harmony by fostering a distinct mode of organization rooted in the state's ideological and legal foundations, as well as broader intellectual traditions from earlier periods.⁸¹ This conceptualization was further

⁷⁸ Hagen, "Legitimacy and World Order," 61.

⁷⁹ Here, I employ the term "*state*" ("*devlet*") to refer to the Ottoman polity, in alignment with the terminology used by Tursun Beg in his *Târîh-i Ebü'l-Feth*. Although the precise date of composition is uncertain, the text likely dates to sometime between 1420 and 1488. Notably, Tursun Beg deliberately used the term "*devlet*" rather than "*imparatorluk*," reflecting the conceptual and political vocabulary of his time.

⁸⁰ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12–13. "*Pes nizâm-ı matlûb husûlî için vücûd-ı pâdişâh vâcib oldu ki, vücûdînsuz intizâm-ı ahvâl-i eşref-i mümkinât- ki nev'-i insândur- mümteni'.*"

⁸¹ Ergenç, "Continuity and Change ...," 559. Gottfried Hagen argues that the Ottomans coined the term *nizâm-ı âlem* as a *chiffre*—that is, a symbolic and interpretive key—for conceptualizing social order. However, as previously noted, the notion of *nizâm-ı âlem* as a reflection of social order also appears in

reinforced by the Qur'an's occasional use of the term “*âlem*” to refer to humanity rather than the cosmos, highlighting the intrinsic link between *nizâm-ı âlem* and the structuring of human society.⁸² Given this foundational connection, Ottoman intellectuals did not treat *nizâm-ı âlem* as an abstract ideal but actively engaged with it as a guiding principle for social order. Their works reflect a systematic effort to articulate *nizâm-ı âlem* by analyzing both the duties of individuals in sustaining social harmony and the state's role in safeguarding and regulating this order, often through a synthesis of religious and administrative perspectives. Understanding these perspectives requires a close examination of early modern Ottoman intellectuals' writings, which reveal the diverse ways in which *nizâm-ı âlem* was conceptualized and applied in Ottoman thought.

Building on the earlier intellectual traditions, Ottoman scholars systematically explored the relationship between *nizâm-ı âlem* and social order, emphasizing that the stability of the world relied on an organized society rooted in balance, cooperation, and mutual obligation. Among them, Tursun Beg argues that rigid social segregation based on inherent inequalities among individuals would undermine solidarity and disrupts social cohesion.⁸³ Drawing on the intellectual legacies of al-Farâbî, al-Tûsî (d. 1274), and Ibn Khaldun (d. 1406), he argues that social order is maintained through the active balancing of disparities via cooperation and mutual support.⁸⁴ Expanding on this foundation, Sinan Pasha (d. 1486), an Ottoman statesman and intellectual,

the works of earlier Islamic thinkers, indicating a broader intellectual genealogy that predates its Ottoman articulation. Hagen, “Legitimacy and World Order,” 61.

⁸² See Qur'an (1:2) “All praise is for Allah—Lord of all worlds (*âlemîn*).” In here “world” is a broader term that refers to all creatures, including humans, animals, angels and so on.

⁸³ Tursun Bey, *Târih-i Ebü'l-Feth*, 12. “*Pes eğer tabî'atleri muktezasınca konulurlarsa, aralarında şol kadar tenâzü' ü temânü ve husumet ü tedâfü' vâkı' ola kim asl-ı ictimâ'dan maksûd olan te'âvün ve yardımlaşmak hâsıl olmaz; belki birbirin ihsâd ü ifnâ ider ...*”

⁸⁴ Tursun Bey, *Târih-i Ebü'l-Feth*, 12. “*Ve benî nev' arasında umûr-ı te'âvüni mütekeffil şuğl ne ise ana meşgul eyleye.*”

deliberately employs the term *nizâm-ı âlem* to denote the notion of social order.⁸⁵ This explicit usage underscores the concept's broader significance in early modern Ottoman thought, demonstrating that *nizâm-ı âlem* functioned as an essential framework for both political authority and societal stability. While Sinan Pasha acknowledges divinely ordained social hierarchy as an inherent feature of society, he does not equate *nizâm-ı âlem* with a rigid and immutable stratification. Instead, he emphasizes that its preservation relies on the observance of reciprocal rights and mutual responsibilities among individuals.⁸⁶ Therefore, Sinan Pasha emphasizes that every individual—whether a farmer, a weaver, a vizier, or a sovereign—must actively contribute to the maintenance of *nizâm-ı âlem* through concrete efforts in their respective roles, ensuring the stability of social order both in practical and functional terms.⁸⁷

While Tursun Beg and Sinan Pasha acknowledged the presence of a social hierarchy, they emphasized cooperation and mutual responsibility as the key mechanisms for sustaining *nizâm-ı âlem*. Other Ottoman scholars, however, further elaborated on the socio-theological foundations of social order, offering more structured interpretations of hierarchy and its role in fostering social cohesion and interdependence. Among them, Kınalızâde Ali Çelebi (d. 1579), a prominent Ottoman scholar and moral philosopher of the sixteenth century, articulated a vision in which social hierarchy and interdependence were not merely practical necessities but fundamental components of a divinely ordained world order. However, Hagen presents a distinct interpretation, arguing that Kınalızâde views social order not as a divinely

⁸⁵ Sinan Paşa, *Maârif-Nâme: Özlü Sözler ve Öğütler Kitabı*, ed. Mertol Tulum (Ankara: Atatürk Kültür Merkezi, 2013), 368.

⁸⁶ Sinan Paşa, *Maârif-Nâme* ..., 368. “Cihanın nizâmı böyle olur ve âlem intizâmı bununla bulunur ki nâsın aralarında olan hukûk riâyet ola; tâ ki dâ’ima birinden birine himâyet ola.”; “Her vakit üstlerine lâzımdır ki ödünçleşeler menâfi’ ü maînâtı; biribirinden men’ eylemeyeler ellerinde olan mâûnâtı.”

⁸⁷ Sinan Paşa, *Maârif-Nâme* ..., 368. “Her kişi cehd eylemek gerek ki nizâm-ı âlemde onun dahi bir menfaati ola; gerekse bâtında gerekse zâhirde bir hizmeti ola. Gerek dihkân ola gerek cüllâh; gerek vezir ola gerek pâdişah.”

ordained structure but as a pragmatic response to human insufficiency and unequal distribution of capabilities. Strikingly, he further contends that Kınalızâde sees inequality—expressed through the hierarchical distinction between ruler and servant—as a fundamental requirement for sustaining order, rather than as a reflection of a theological principle.⁸⁸ However, a closer reading of *Ahlâk-ı Alâ'î* suggests otherwise. While Kınalızâde acknowledges that human beings, unlike other creatures, cannot sustain themselves independently, he does not present this reality as a mere pragmatic necessity. Instead, he frames interdependence as a fundamental aspect of divine design, wherein human insufficiency and inequality in capabilities are products of divine will, making structured social organization both a natural consequence and a divinely instituted framework for maintaining harmony.⁸⁹

This theological perspective is not unique to Kınalızâde but is rooted in a broader intellectual tradition within Islamic political thought. Long before Kınalızâde, al-Mâwardî (d. 1058), a prominent eleventh-century Shafi'i jurist and political theorist, articulated a similar notion by arguing that God created humanity with inherent differences so that individuals might coexist through their contrasts, find balance in their disparities, and cultivate mutual dependence.⁹⁰ According to al-Mâwardî, this arrangement enables both rulers and subjects to practice *îthâr* (self-sacrificial preference for others), fostering a system in which those in positions of power and their subordinates support one another through mutual cooperation and

⁸⁸ Hagen, “Legitimacy and World Order,” 62. Hagen interprets Kınalızâde's views as follows: “Qınalızade sees the origin of social life in the insufficiency of man, not in an act of divine will. Human beings depend on one another, due to the unequal distribution of capabilities and predilections. What distinguishes him from Tursun Beg is that for him the inequality is necessary, because the social hierarchy is based on it: Only through the inequality and the distinction of ruler and servant is the order achieved.” While this is Hagen's interpretation, it arguably overemphasizes the functional necessity of inequality in Kınalızâde's thought and may not fully reflect the broader ethical and metaphysical concerns present in his writings.

⁸⁹ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, ed. Mustafa Koç (İstanbul: Klasik, 2007), 405.

⁹⁰ Mâverdî, *Devlet Yönetiminde Ahlak ve Siyaset: Teshîlu'n-Nazar ve Ta'cili'z-Zafer fî Ahlâki'l-Melik ve Siyaseti'l-Mülk*, trans. Muhammet Çelik (İstanbul: Timaş Akademi, 2024), 9.

interdependence.⁹¹ In parallel with this earlier tradition, Kınalızâde's arguments suggest that human interdependence is not merely a product of necessity but a reflection of divine wisdom. To illustrate this point, Kınalızâde draws a comparison between human society and the animal world, noting that while certain species can survive in isolation, others—such as bees and ants—rely on structured hierarchies for their survival.⁹² However, despite this apparent similarity, Kınalızâde underscores a crucial distinction: whereas the social structures of animals are dictated by instinct, human beings are uniquely entrusted with fulfilling their needs—such as food (*gıdâ*), clothing (*libâs*), weapons (*silâh*), and shelter (*mesken*)—through reason and discernment (*'âkl u temyîz*).⁹³ This intellectual capacity, he argues, is central to the divine order and distinguishes human society from the instinctual organization of animals.⁹⁴ Furthermore, Kınalızâde asserts that individuals are created with varying abilities by divine wisdom, ensuring that no one can be entirely self-sufficient.⁹⁵ This intentional differentiation endows individuals with distinct skills and capacities, fostering professional specialization and interdependence within a cohesive social structure.⁹⁶ Following this logic, Kınalızâde emphasizes that economic disparities are

⁹¹ Mâverdî, *Devlet Yönetiminde ...*, 9.

⁹² Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 405.

⁹³ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 405. “*Maksûd bu tafsîlden oldur ki insân bekâ-yı nev' ve bekâ-yı şahsında birbirinin hıdmet ü mu'âvenetine sâyir hayvânâtta artık muhtâcdır. Hikmeti oldur ki insân 'âkl u temyîz ile mevsûf u mümtâzdır. Pes Hakk- celle ve alâ- cemî'-i mesâlihini eğer gıdâ eğer libâs eğer silâh eğer mesken kendinin tahsiline ve revîyyetine tefvîz etmiştir, zirâ fikr ü 'âkl ile cümlesin tahsîl ü tekmîle kâdirdir. Ammâ hayvânât hilye-i 'âkl u temyîzden hâlî olmağın zâyî' olmasınlar için anın mesâlihini ve levâzımını tabî' i etmiştir; kendilerinin fikr ü tedbîrine müfeyvaz etmemiştir.*”

⁹⁴ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 405.

⁹⁵ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 405. “*Çün insânın levâzımı kendi tahsiline muhtâc oldu, pes ictimâ' ları- ki temeddün andan ibârettir- zarûri be birbirlerine mu'âvenetleri lâzımdır zirâ bir kişi levâzımına müstakill olamaz. Ve bunun dahi nev'-i tahsîlin sâbikan îrâd eyledik ki bir şahs bir ragîf yemeğe zer' u hasâd u diyâs ve tahn u hubz lâ-ekall lâzımdır.*”

⁹⁶ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 405-06. “*...Ve bir kimesne bir bez kaftan giymeğe kutnu zirâ 'at u cem', ba'dehu hallâc dânesinden halîs, ba'dehu gazzâl gazl, ba'dehu hâyik nesc, ba'dehu hayyât hıyâtat etmek gerek. Her biri bir hîrfet ü sînâ' attir. Ömründe bir kişi bir veyâ iki hîrfet tahsîl ede ve ol hîrfet ü sînâ' atlar âlâta muhtacdır. Pes zâhir oldu ki insân ictimâ' a gâyet muhtâc imiş ki her biri bir sînâ' at ihtiyâr edip anı işleyip kendiye lâzım olacak mîkdârdan artığını âhere isâk ede. Mesela hayyât kendinin libâsın diktikten sonra âherin libâsını dikivere ve neccâr kendi evin yaptıktan sonra âherin evini dahi yapivere. Ve âherden ücret alıp hayyât kendinin libâsından gayri mühimmâtına ve neccâr dahi sâyir levâzımına sarf eyleye ki cümle levâzımı hâsıl ve mühimmâtı hâzır olup ma'âş ede.*”

not incidental but rather a manifestation of divine design.⁹⁷ He contends that human fate is determined by divine decree, and thus, individuals are not equal in terms of wealth and poverty.⁹⁸ This differentiation, rather than being a flaw in social organization, fosters mutual dependence and ensures the proper functioning of society.⁹⁹ For if all individuals were to engage in the same profession, economic stability would be disrupted (*ma'îşet muhtell olurdu*), leading to an imbalance in sources of livelihood and, ultimately, the destabilization of the social order as well as *nizâm-ı 'âlem*.¹⁰⁰ Consequently, rather than viewing social order as a mere response to human insufficiency, Kınalızâde presents it as an integral component of a divinely mandated cosmic balance, where each individual contributes to the overarching harmony of the world by fulfilling their prescribed role.

Hasan Kâfî al-Akhisârî (d. 1615), a prominent sixteenth-century Ottoman intellectual, builds upon Kınalızâde's perspective, framing social order not only as a prerequisite for governance but as an essential condition for the survival of humankind and the preservation of *nizâm-ı 'âlem*. He articulates the theological foundation of social order as follows:

When God decreed, for a fixed term [until the judgement day], that the continuity of the world depends on the survival of humankind, and the survival of humankind on the perpetuation of lineage—which is achieved through

⁹⁷ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 406.

⁹⁸ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 406. “*Ve nitekim efrâd-ı beşer takdîr-i rabbânî ile fakr ü gınâda müsâvî değildir ...*”

⁹⁹ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 406. “*... zîrâ cümle insân ganî yâ fakîr olsa bir ferd bir ferde hidmet edemezdi, zîrâ hidmet hâdim cânibinden ihtiyâc, mahdum cânibinden menfa'at isâline kudret olmaya mevkuftur. Cümle efrâd ganî olsa, kimesnede ihtiyâc olmamağın bir ferd-i hâdim olmazdı. Cümlesi fakîr olsa bir aha menfa'ate kâdir olmadığı için kimesne ana hidmet etmezdi. Pes ihtilâf-ı ahvâl olup muhtâc olanlar hâdim ve menfa'ate kâdir olanlar mahdûm oldu ki mahdûm hâdimin hidmet-i bedenîyyesiyle mütemetti ve hâdim mahdûmun menfa'at-i mâl u câhı ile mentefi' olup cümlelerin murâdı vâsıl ve nizâm-ı 'âlem hasıl ola.*”

¹⁰⁰ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 406. “*Eğer cümle efrâd-ı insânın himmeti bir sînâ'at olursa ma'îşet muhtell olurdu. Pes hikmet ü lutf-ı ilâhidir ki cem'-i efrâd-ı insân sanâyi'-i şerîfeye tâlîp olmayıp sanâyi'-i hasîse ve hiref-i denîyyeye tâlib, belki sanâyi'-i şerîfeden artık râgıb olurlar.*”

coexistence and marriage—it became evident that an order was needed to regulate human affairs.¹⁰¹

In this formulation, social order is not merely a tool for governance but a divinely mandated necessity that ensures the continuation of human civilization. By linking the survival of humankind to an overarching regulatory order, al-Akhisârî reinforces the notion that *nizâm-ı âlem* extends beyond political stability to encompass the moral and social foundations of a healthy society. His perspective, much like Kınalızâde's, underscores the belief that hierarchy and interdependence are not arbitrary constructs but rather fundamental elements of a divinely ordained framework that sustains the world.

As the concept of *nizâm-ı âlem* was closely tied to the regulation of social order, Ottoman intellectuals not only explored the ethical and theological foundations of the concept, but also sought to define its structural composition. While thinkers like Tursun Beg and Sinan Pasha emphasized cooperation and mutual responsibility as essential mechanisms for sustaining social harmony, they did not provide a detailed blueprint for the hierarchical organization of society. On the other hand, al-Akhisârî, though engaging with these themes, offered only a brief acknowledgment of social stratification, relying primarily on Kınalızâde's framework. In contrast, Kınalızâde Ali Çelebi presents a far more structured and systematic interpretation of the Ottoman social order. By drawing on a rich philosophical and intellectual tradition, he

¹⁰¹ Hasan Kâfî Akhisârî, *Nizâm-ı Alem'i Sağlayan Sebeplerin Temelleri*, trans. Ömer Mahir Alper (İstanbul: Klasik, 2020), 55; Mehmet İpşirli, "Hasan Kâfî El-Akhisârî ve Devlet Düzenine Ait Eseri: Usûlü'l-Hikem Fî Nizâmî'l-Âlem," *Tarih Enstitüsü Dergisi* X–XI, (1981): 255. "Ol sebeb-i nizâm-ı âlem budur ki: tahkîk Allâh hazretleri çünkü 'âlemün bâkî olmasını nev'-i insânun bâkî olmasıyla takdîr eyledi, ya'nî, mâdâme ki nev'-i insânun bakî ola, 'âlem dahi ma'lûm olan vakte değin, ki yevm-i kıyâmetdür, bâkî ola deyü takdîr eyledi. Dahi nev'-i insânun bekâsını evlâd getürmekle takdîr eyledi. Bu evlâd ve nesl ise mu'âşeret ve çiftlenmek ile olur; bu ise olmaz, illâ te'âmül ile olur: ya'nî halk birbiri ile mu'âmele ve alış-viriş itmekle olur."

conceptualizes society as an intricately ordered whole, in which balance and stability are preserved through a well-defined hierarchical structure. His analysis not only reflects the influence of earlier scholars such as Ibn Sînâ (d. 1037), al-Ghazzâlî, al-Tûsî, and Jalâl al-Din al-Dawânî (d. 1502) but also contributes to the broader Ottoman discourse on the relationship between social hierarchy and *nizâm-ı âlem*.¹⁰²

In *Ahlâk-ı Alâ'î*, Kınalızâde conceptualizes Ottoman society as an organic whole composed of four primary, profession-based strata: warriors (*ehl-i şimşir*), scholars (*ehl-i kalem*), artisans and merchants (*erbâb-ı hıref u sanâyi*), and peasants (*ta'ife-i zirâ'at*).¹⁰³ This structure, commonly referred to as the “*anâsır-ı erba'a*” (four elements), underscores the interdependence of these groups in maintaining social order.¹⁰⁴ As previously discussed, Kınalızâde argues that since no individual can independently fulfill all their material needs, divine wisdom has guided people toward various professions, including those considered inferior, to ensure the proper functioning of society.¹⁰⁵

While this hierarchical model represents a distinct articulation within the Ottoman intellectual tradition, its underlying principles resonate with broader philosophical perspectives on social organization. As Boğaç Ergene notes, Aristotle’s *Nicomachean Ethics* defines a just social order as one in which each individual performs roles that aligns with their natural dispositions and abilities. In a similar vein,

¹⁰² Kınalızâde Ali Çelebi’s *Ahlâk-ı Alâ'î* draws heavily on *Ahlâk-ı Nâsırî*, the seminal ethical treatise of al-Tûsî, and also bears strong affinities with the moral philosophy of al-Dawânî, whom Kınalızâde praised for renewing the religious creed and enriching the philosophical tradition through his *Ahlâk-ı Celâlî*.

¹⁰³ Kınalızade Ali Çelebi, *Ahlâk-ı Alâ'î*, 478–80.

¹⁰⁴ The theory of “*anâsır-ı erba'a*” originally refers to the four classical elements—earth, water, air, and fire—in ancient Greek and Islamic philosophy, symbolizing foundational components of existence and their interdependence. For more on the concept of “*anâsır-ı erba'a*,” see H. Bekir Karlığa, “Anâsır-ı Erbaa,” *TDV İslâm Ansiklopedisi*, accessed January 23, 2025, <https://islamansiklopedisi.org.tr/anasir-i-erbaa>.

¹⁰⁵ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 402–407, 479–80.

Aristotle contends that a well-ordered polity assigns individuals a rank and function suited to their capabilities, thereby ensuring stability and social cohesion. Plato further reinforces this idea by asserting that justice is preserved when the hierarchical order remains intact, highlighting the notion that political action should be directed toward preserving the status quo, rather than disrupting them.¹⁰⁶ Kınalızâde's vision of social stratification and interdependence mirrors these classical formulations, further strengthening the Ottoman intellectual tradition's engagement with Aristotelian and Neoplatonic political thought.¹⁰⁷

While classical philosophical thought provided a theoretical foundation for social hierarchy, Kınalızâde further enriches his analysis in more tangible way by employing a medical analogy to illustrate the necessity of balance among each stratum which composed social order. Drawing on Galenic theory, which associates human health with the equilibrium of four bodily elements (blood, yellow bile, black bile, and phlegm), he likens social harmony to bodily health.¹⁰⁸ According to this analogy, just as the body becomes diseased when one element dominates or is depleted, society similarly descends into disorder when a social class oversteps its designated role or disrupts the established balance.¹⁰⁹ This emphasis on fixed social roles for societal

¹⁰⁶ Boğaç Ergene, "On Ottoman Justice: Interpretations in Conflict (1600-1800)," *Islamic Law and Society* 8, no.1 (2001): 56–57.

¹⁰⁷ Nedim Nomer and Kaya Şahin, "Legitimizing the Sultanate: Political Thought and Government in the Reign of Süleyman (1520–1566)," in *Histories of Political Thought in the Ottoman World*, 48.

¹⁰⁸ Vivian Nutton, "Galen," *Encyclopedia Britannica*, January 1, 2025, <https://www.britannica.com/biography/Galen>.

¹⁰⁹ Kınalızade Ali Çelebi, *Ahlâk-ı Alâ'î*, 479–80. "Ve nitekim ba'z-ı anâsır bedende âhere galebe etse, mûcib-i maraz ve mûris-i illet ü araz olur. Kezâlik bu tavâyîfîn ba'z-ı galebe eylese, mizâc-ı âlem halel-pezir olur. Mesela esker-i halk sipâhî olup erbâb-ı sanâyi' ü tüccâr-ı bizâyî' az kalsa ve alâ hâze'l-kıyâs. Ve kezâlik bu tavâyîfîn ba'z-ı âherin amelin eylese yine mü'eddî-i fesâddır." In the earlier part of *Ahlâk-ı Alâ'î*, Kınalızâde draws upon al-Farabi's detailed concept of the Virtuous City (*Medinetü'l- Fâzıla*) (stemmed from Plato's ideal state) and outlines an earlier five-fold social division. This division comprises the 'distinguished' (*efâdil*), who guide the city through their wisdom and knowledge; the 'orators' (*zevî'l-elsine*), who educate and inspire the masses; the 'accountants' (*mukaddir*), who ensure justice in measures and maintain balance; the 'warriors' (*gâzî*), who protect the city and pursue conquests; and the 'economically active' (*erbâb-ı emvâl*), who sustain the society's material needs through production and trade. For more on the first model, see Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ'î*, 451–53. For more on al-Farabi's "Medinetü'l Fâzıla," see, Farabi, *El- Medinetü'l- Fâzıla*, trans. Nafiz

harmony is echoed in Tursun Beg's work. He stressed the necessity of maintaining this balance by ensuring that each individual was satisfied with their position and rights according to their abilities, thereby preventing the infringement of one group upon another's role.¹¹⁰ Similarly, Akhisârî expands on these ideas, asserting that a clear delineation of between social classes and individual responsibilities are vital for ensuring a social order. Following this logic, he warns that failing to uphold this principle—whether by preventing a class from fulfilling its designated tasks or compelling it to assume the responsibilities of another—would lead to confusion and chaos.¹¹¹ Later Ottoman intellectuals, such as Kâtip Çelebi (d. 1657) and Mustafa Na'îmâ Efendi (d. 1716), further refined and expanded upon Kınalızâde's four-tiered social model. Katip Çelebi, drawing inspiration from Kınalızâde, reinforced this framework through his well-known analogy with the four humors of the human body, while Na'îmâ Efendi incorporated it into the theoretical introduction of his chronicle, emphasizing its relevance to the broader understanding of social order.¹¹²

Danışman (Ankara: MEB, 2001). This anthropomorphic theory presented by al-Farabi was later simplified by al-Tusi in his work titled *Ahlâk-ı Nâsirî*. In this discussion, however, I have chosen to focus on Kınalızade's later model—the “four pillars” (*anâsır-ı erba'a*)—as this framework aligns more closely with Hasan Kafi el-Akhisârî's adaptation of a four-element-based structure. While Akhisârî's interpretation resonates with Kınalızade's second framework, it is important to note that the conceptual roots of this social division ultimately trace back to Farabi's *Medinetü'l-Fâzıla*.

¹¹⁰ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12. “Zarûrî nev'-i tedbîrden gereklü oldı ki her birini müstahıkk olduğu menzilde koya; kendü hakkına kânî idüp dest-i tasarrufını hukûk-ı gayrdan kûtâh kıla. Ve benî nev' arasında umûr-ı te'âvünü mütekeffil şuğl ne ise ana meşgul eyleye.”

¹¹¹ İpşirli, “Hasan Kâfî El-Akhisârî ...,” 253. “Pes böyle olıcak imdi her bir sınıfın ehlinün kendülere mahsus olan amel üzre sâbit ve ka'im olmaları mülk ve saltanatda nizâmı icâb ve iktizâ ider. Ammâ her sınıfın kendüye mahsûs olan amelde ihmâl idüp tekâsül üzre olması nizâmın hilâfını iktizâ ider, ya'ni bu takdîr-i ka'ide ve sınıf ehli kendü amelinden alınıp gayri sınıf ehlinün ameli üzerine cebr ü teklîf oluna. Zira tahkik bu makule cebr ü teklîf ihtilâli ce teşevvüşü icâb ider.”

¹¹² Hagen, “Legitimacy and World Order,” 64; Mehmet Öz, “Klasik Dönem Osmanlı Siyasi Düşüncesi: Tarihi Temeller ve Ana İlkeler,” *İslâmi Araştırmalar Dergisi* 12, no. 1 (1999): 31.

2.1.1 Disorder and the Fear of Collapse: *Nizâm-ı Âlem* in Discourse of Crisis

While early modern Ottoman thinkers widely regarded *nizâm-ı âlem* as a framework for cosmic, social, and political harmony, the concept also took on a darker dimension in moments of perceived disorder. From the fifteenth century onward, disruptions to the established social hierarchy—whether imagined or real—were increasingly interpreted as existential threats to the world order. This section explores how *nizâm-ı âlem* was invoked not only to describe ideal social cohesion, but also to articulate fears of collapse, disorder, and moral degeneration. While fifteenth-century authors framed these anxieties in eschatological terms, seventeenth-century Ottoman intellectuals expressed them as symptoms of political crisis and administrative decline. In both cases, the fear of losing *nizâm-ı âlem* served as a powerful rhetorical tool to justify intervention, regulation, and the preservation of hierarchical stability.

One of the earliest and most vivid expressions of this anxiety appears in the writings of Ahmed Bîcan (d. 1466), commonly known as Yazıcıoğlu. In his eschatological treatise *Dürr-i Mekkûn* (*Hidden Pearls*), he portrays his own era as “a time of disorder” (*bu fitne zamanında*), framing the erosion of social boundaries as a sign of the impending apocalypse.¹¹³ In the seventeenth chapter of his book, he enumerates the signs foretelling the approaching end of the world, referencing prophetic traditions that place the onset of these events shortly after the year 900 in the Hegira calendar (1494/95).¹¹⁴ According to Sariyannis, this dating suggests that

¹¹³ Yazıcıoğlu Ahmed Bîcan, *Dürr-i Mekkûn: Saklı İnciler*, ed. Necdet Sakaoğlu (İstanbul: Tarih Vakfı Yurt Yayınları, 1999), 19–20; Marinos Sariyannis, *A History of Ottoman Political Thought up to the Early Nineteenth Century* (Leiden, The Netherlands: Brill, 2019), 40. “... bu azacık ömür içinde bu fitne zamanında cihanı geşt edip gezmeğe ihtiyaç olmaya.”

¹¹⁴ Yazıcıoğlu Ahmed Bîcan, *Dürr-i Mekkûn* ..., 120–21.

Yazıcıoğlu was not merely speculating about a distant future apocalypse but was actively interpreting his own time as the beginning of the final age.¹¹⁵ According to his vision of apocalypse, one of the key markers of cosmic upheaval would be the inversion of traditional social hierarchies. He prophesied that ‘women will mount horses like chieftains and dominate, boys will be like princes (emir),’ depicting a world where established social roles would collapse, heralding divine retribution.¹¹⁶ For Yazıcıoğlu, such disruptions in the social order were not merely instances of change but definitive markers of approaching apocalypse, reinforcing widespread fears that the breakdown of traditional structures would lead to irreversible disorder. His warnings reflected a broader Islamic eschatological tradition, which regarded societal corruption, the blurring of class distinctions, and the violation of established norms as precursors to the Day of Judgment.

While Yazıcıoğlu’s interpretation framed social disorder within a theological and eschatological context, by the seventeenth century, concerns about the erosion of social boundaries had shifted from a religious warning to an urgent political problem requiring state intervention. Contemporary Ottoman authors increasingly attributed perceptions of disorder and corruption, military stagnation, fiscal instability, and administrative inefficiencies to the erosion of the social hierarchy and, by extension, *nizâm-ı âlem*.¹¹⁷ Although modern historiography has critically examined the “decline paradigm,” it was, first and foremost, a product of Ottoman intellectual discourse. As

¹¹⁵ Sariyannis, *A History of Ottoman Thought...*, 40.

¹¹⁶ Yazıcıoğlu Ahmed Bîcan, *Dürr-i Mecnun* ..., 122. “Mescidler çok amma namaz kılar kişi az ola ve kılanın dahi namazlarında hüşû olmaya. Zira kisblerinde helâl ve haram fark olmaya. Zira mushaflar münakkaş ve müzehheb ola, amma okuyub amel etmeyeler. Amel eden dahi riâyaya edeler. Kur’an’ı teksib edenler içlerinde riya çıkmaya. Avretler beyler gibi atlara binip hükümet edeler. Oğlanlar emir gibi ola ...”

¹¹⁷ Cemal Kafadar, “The Myth of the Golden Age: Ottoman Historical Consciousness in the Post-Süleymânic Era,” in *Süleymân the Second and His Time*, ed. Halil İnalcık and Cemal Kafadar (İstanbul: The Isis Press, 1993), 38.

Douglas Howard notes, Ottoman bureaucrats and statesmen of the late sixteenth and early seventeenth centuries actively shaped this perception by producing political treatises that lamented deviations from earlier administrative practices and the weakening of central authority.¹¹⁸ Similarly, Hagen argues that, by the 17th century, the concept of world order was increasingly framed in terms of the looming threat of chaos and disruption.¹¹⁹ During this period, the displacement of the subjects (*re'âyâ*)—particularly those tied to the land, such as peasants engaged in agricultural production—was perceived as particularly detrimental to the agrarian economy and the social fabric it sustained. Al-Akhisârî, for instance, highlighted the forced conscription of peasants and artisans into military service—an outcome of irregularities within the ranks of the soldiers—as a critical factor contributing to political and social instability.¹²⁰ Similarly, Ayn Ali Efendi (d. ?), a seventeenth century Ottoman statesman, lamented the deterioration of the *timar* system, describing the loss of its exclusivity as a sign of institutional decline:

In earlier times, it was impossible for outsiders to enter the *timar* system, nor could the idea of becoming a member of the *kapıkulu* even arise, as laws had been established to prevent this. However, these laws have now been forgotten, and not only the servants of the notable and prominent figures (*â'yân* and *eşrâf*), but also those of more ordinary people have become members of the *kapıkulu*, disregarding the original decree and its intent.¹²¹

¹¹⁸ Howard, “Ottoman Historiography and the Literature ...,” 53.

¹¹⁹ Hagen, “Legitimacy and World Order,” 81.

¹²⁰ İpşirli, “Hasan Kâfî El- Akhisarî ...,” 253. “*Nitekim bu birkaç yılda ihtilâl ve teşevvüş bu sebeb ile vâki' oldu. Re'âyâ ve kurâ halkı ve ehl-i sanâyi' ve kasabât halkı serhadlere sürülüp, muharebede ihmâl idüp, zâbitler tekâsül itmeğle esbâb-ı ma'aş mükedder olup, vilâyetde kaht u galâ bir mertebeye vardı ki ... Bu re'âyâ ve kasabât halkı muharebeye cebr ile sürülmek kadîmden olmayup, bin bir tarihinden bu ana gelince vâki' oldu.*”

¹²¹ Ayn Ali Efendi, *Osmanlı Kanunları ve Devlet Teşkilatı*, ed. Seyit Ali Kahraman (İstanbul: Yeditepe, 2021), 63–64.

Echoing these concerns, Koçi Beg (d. 1650?), a prominent seventeenth century Ottoman scholar and statesmen, reinforced the idea that social mobility posed a direct threat to imperial stability.¹²² He warned that if the *re'âyâ* adopted the roles and symbols of the *askerî* (ruling class), such as riding horses and wielding swords, they would resist returning to their designated status.¹²³ In his view, such individuals would be ill-suited for military service and, rather than strengthening the state, would instead contribute to widespread disorder by joining bands of rebels. In line with Koçi Beg's observations, Ayn Ali Efendi further cautioned that the breakdown of social distinctions directly undermined the state's ability to mobilize an effective military force. He noted that during the musters preceding a military campaign (*sefer-i hümâyûn*), it was increasingly common to find that a sanjak, officially listed as having one hundred cavalymen (*sipâhî*), could muster no more than ten to fifteen men.¹²⁴

Therefore, the vertical and horizontal social mobility were seen as a threat to the Ottoman empire's stability and the *nizâm-ı âlem*. In response, the Ottoman legal

¹²² Modern historians emphasize the importance of considering the personal interests and status preservation efforts of mirrors for princes (*nasihatnâme*) or reform treaties writers when evaluating their works. For instance, Gelibolulu Mustafa Âli's belief in the empire's decline was largely shaped by his frustration at failing to secure promotions and court patronage. In this context, some scholars argue that the primary goal of *nasihatnâme* authors may have been to safeguard their personal or class status in a rapidly changing world. Thus, when assessing Koçi Beg's concerns regarding the 'decline', it is crucial to acknowledge that he, too, may have been motivated by a desire to protect his own position and interests. This perspective highlights that *nasihatnâme* literature was shaped by the personal experiences and expectations of its authors and, therefore, may not provide an entirely objective evaluation of the Ottoman Empire's overall condition. See, Howard, "Ottoman Historiography and the Literature ...," 54; Cornell Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa Âli, 1541–1600* (Princeton: Princeton University Press, 1986), 103; Kafadar, "The Myth of the Golden Age ...," 42; Cornell H. Fleischer, "Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa Ali, 1546–1600," *International Journal of Middle East Studies* 22, no. 1 (1990): 127–28.

¹²³ Koçi Bey, *Koçi Bey Risâlesi*, ed. Zuhuri Danişman (İstanbul: MEB, 1972), 7. According to the Ottoman laws: "The *re'âyâ* (tax-paying subjects) are not permitted to ride horses or bear swords. Those among them who possess courage and valor may enter the service of the military class (*asker tâ'ifesi*) by serving the *sancakbeyis* and *beylerbeyis*, residing at the frontiers (*serhads*), and earning a livelihood there. When their service at the frontier is observed, the *beylerbeyis* and *sancakbeyis* of the frontier present their companionship and service to be recorded in the registry, and in return for their service, they are granted *timars* according to the law from the frontier stipend (*serhat 'ulûfesi*). Otherwise, it is contrary to the law (*kânûn*) for someone who is not by lineage a cavalymen's son (*sipahizade*) to be included in the *timar* system by any other means." See Ayn Ali Efendi, *Osmanlı Kanunları ve Devlet Teşkilatı ...*, 63–66.

¹²⁴ Ayn Ali Efendi, *Osmanlı Kanunları ve Devlet Teşkilatı ...*, 66.

system instituted strict measures to curb such disruptions. For example, peasants who abandoned their land without authorization were required to return to it or pay a punitive double tax (*çift-bozan resmi*), even if discovered years later.¹²⁵ With a similar perspective, janissaries were explicitly prohibited from engaging in trades or other non-military activities to preserve their role as professional soldiers and maintain the integrity of the social order. These efforts to restrict social mobility were a reflection of the Ottoman commitment to preserving the *nizâm-ı âlem*, emphasizing stability through a fixed, hierarchical social structure. Building on the necessity of maintaining a fixed social hierarchy, *nizâm-ı âlem* was not only integral to political stability but also to the cultivation of the “ideal individual.” According to Özer Ergenç, this ideal individual was expected to strictly adhere to societal norms without question, seeking no desire to change his position or manner; thus, acting in ways that preserved the *nizâm-ı âlem*.¹²⁶ Any deviation from this ideal—whether through attempts to transcend one’s designated status or by resisting the established hierarchy—was viewed as a direct threat to the *nizâm-ı âlem*. Consequently, such disruptions were categorized as *ihtilâl* (disorder) or *inkılâb* (rebellion), both regarded as existential dangers to the empire’s stability and achieving the *nizâm-ı âlem*.¹²⁷ These efforts to contain social mobility and behavioral deviation illustrate how preserving hierarchical stability became central to both statecraft and ethical governance. It was in this context that *nizâm-ı âlem* became increasingly invoked not only as a guiding ideal but as a fragile structure under constant threat.

To sum up, the concept of *nizâm-ı âlem* evolved from a metaphysical ideal rooted in Islamic theology and philosophy into a central pillar of Ottoman political and

¹²⁵ Mübahat Küçüköğlü, *Osmanlı’nın Sosyo-kültürel ve İktisadi Yapısı*, (Ankara: TTK, 2020), 2.

¹²⁶ Ergenç, “Continuity and Change ...,” 552.

¹²⁷ Ergenç, “Continuity and Change ...,” 559.

social thought. It served not only to conceptualize divine harmony and social hierarchy, but also to justify practical mechanisms for governance, discipline, and intervention. Whether employed to articulate cosmic coherence, to enforce social duties, or to diagnose perceived decline, *nizâm-ı âlem* emerged as a versatile and authoritative framework. Its flexibility allowed Ottoman thinkers to adapt it to shifting historical conditions—both as an expression of ideal order and as a warning against its potential collapse. These anxieties about disorder and collapse revealed not only the fragility of *nizâm-ı âlem* as a normative ideal, but also the Ottoman state’s growing preoccupation with preserving it through active measures. As the following section will demonstrate, this concern led to the development of concrete mechanisms—rooted in justice, law, and sovereign authority—designed to uphold and enforce world order.

2.2 Maintaining the *Nizâm-ı Âlem*: Sovereign, Justice and Law

This section examines how the Ottoman ideal of *nizâm-ı âlem*—the maintenance of cosmic and political order—was theorized and operationalized in early modern imperial thought and practice. Far from being a purely symbolic doctrine, *nizâm-ı âlem* served as a normative framework that shaped conceptions of rulership, justice, social hierarchy, and legal authority. The sultan was positioned at the center of this vision, both as a metaphysical figure responsible for ensuring cosmic balance and as a practical administrator charged with the protection and prosperity of his subjects. The following sections explore the foundations of this order by analyzing: (1) the theological and philosophical justifications of the sultan’s authority; (2) the ethical and

emotional obligations of the ruler toward the *re'âyâ*; (3) the institutional and moral significance of justice as the cornerstone of imperial legitimacy; and (4) the participatory mechanisms through which subjects engaged with and shaped imperial justice. Together, these subsections reveal how *nizâm-ı âlem* was not merely imposed from above, but continually shaped through interaction between sovereignty and subjects.

2.2.1 The Sultan as the Guarantor of Cosmic and Political Order

Do not forsake justice if you are to rule a land,
Do not commit oppression, stay away from tyranny.
A realm may endure with the darkest of blasphemy,
But in the city or desert, it will not stand with oppression.¹²⁸

The core characteristic of the *nizâm-ı âlem* ideal is the preservation of its perceived perfection with minimal disruption—in other words, its immutability.¹²⁹ This perceived perfection was not merely political but sacred in nature; any violation of it was seen as a transgression against divine order.¹³⁰ Therefore, the preservation of the social hierarchy and maintenance of the *nizâm-ı âlem* fundamentally relied on the sultan's pivotal role as the ultimate guarantor of order. As Gottfried Hagen argues, the concept of *nizâm-ı âlem* did not hinge on the authority of any specific ruler or dynasty but rather invoked a divinely sanctioned cosmic order that conferred legitimacy upon political power as such.¹³¹ In this interpretation, the sultan was not merely a temporal

¹²⁸ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset ...*, 100. “*Adaleti elden bırakma bir ülkeyi yöneteceksen, Cevr u cefa eyleme, uzak dur zulümden. Mülk ayakta kalabilir kapkara bir küfürle, Ama şehirde veya çölde ayakta kalmaz zulümle.*” Mâwardî states that this poem was recited by a poet, but he does not specify the poet's name. Therefore, the author of the poem remains anonymous.

¹²⁹ Ahmet Yaşar Ocak, “XV–XVI. Yüzyıllarda Osmanlı Resmî Dinî İdeolojisi ve Buna Muhalefet Problemi,” *İslâmî Araştırmalar* 4, no.3 (1990): 193.

¹³⁰ Ocak, “XV–XVI. Yüzyıllarda ...,” 193.

¹³¹ Hagen, “Legitimacy and World Order,” 61.

ruler, but a necessary agent of divine balance—one whose authority derived from his duty to maintain stability and justice in accordance with God’s will. Accordingly, the legitimacy of the sultan’s exalted status was supported by numerous Qur’anic verses and hadiths commanding obedience to the Islamic ruler (*ulü’l-emr*).¹³²

In line with this interpretation, various Muslim intellectuals underscored the necessity of the ruler as a divinely entrusted figure, without whom oppression and disorder would inevitably prevail.¹³³ Al-Mâwardî, for example, argued that governance must be entrusted to a sultan who ensures order and administers public affairs. His authority is reinforced through obedience, enabling him to guide society and uphold *maslahat* (public welfare).¹³⁴ As the central figure in governance, he rectifies corruption, maintains stability, and directs the people toward order.¹³⁵ Building upon this functional and moral role of the ruler, al-Shayzarî (d. 1193?) offered a complementary perspective grounded in social imagery. He emphasized that society composed of diverse and often conflicting elements, requires the unifying presence of a just sovereign to prevent disorder, protect the vulnerable, and ensure security in times of hardship.¹³⁶ To illustrate this, he likened a society without a sultan to a ship adrift

¹³² See Qur’an (4:59) “O believers! Obey Allah and obey the Messenger and those in authority among you...” The hadith states: “There is no rank higher than sultanate, except for a sent Prophet and an angel [*Leyse fevka rütbeti’s-sultan rütbetün illa li-nebiyyin mürselin ev melekın mukarreb*].”

¹³³ Sariyannis, *A History of Ottoman Political Thought* ..., 86.

¹³⁴ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset* ..., 9. “O halde işleri gözetip idare etmesi için bir sultanın yönetimine bırakmak gerekli olmuştur. İnsanlar ona itaatle boyun eğip, onun siyasetiyle işlerini yoluna koyarlar. Sultan bu itaatle sözünü saydırır ve bu siyasetle işleri idare eder. Bu yüzden, ülkelerin yönetimi, halkların ve maslahatların idaresi hususunda en çok önemsenmesi, en ziyâde gözetilmesi gereken insan odur.”

¹³⁵ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset* ..., 9. “Onunla giderilir halktaki bozulmalar, halk onunla istikamet bulur.”

¹³⁶ Şeyzerî, *Hükümdarların Siyaseti: El-Menhecü’l-Meslûk Fî Siyâseti’l-Mülûk*, trans. Kübra Öztürk (İstanbul, Timaş Akademi, 2024), 13. “Halk çeşitli kabilelere mensup, türlü karakterlere sahip, hedef ve maksatları, özellikleri ve kişilik sözünü birbirinden farklı insanların oluşturduğu bir topluluktur. Bu nedenle, toplumda gelen bozulmaları düzeltecek, toplumu ayakta tutacak karşı karşıya kaldıkları zararı def edip, mazlumların hakkını alacak, zor durumlarda halkı müdafaa edecek âdil bir sultan halkın zarurî ihtiyacıdır.”

in stormy seas—without direction, discipline, or hope of survival.¹³⁷ Just as rain is vital to parched land, so too is a righteous ruler essential to the moral and political stability of the community.¹³⁸ Taken together, these perspectives reflect a broader Islamic understanding that without just and divinely sanctioned leadership, societies are prone to chaos, injustice, and collapse.

Building on the foundations laid by earlier Muslim thinkers, Ottoman intellectuals adapted and expanded these ideas to articulate a vision of rulership uniquely suited to their own historical and political contexts. Rather than breaking from Islamic political traditions, they reaffirmed the necessity of a just and divinely sanctioned sovereign by emphasizing the ruler's role in maintaining cosmic, moral, and social order. İdrîs-i Bitlîsî (d. 1520), an Ottoman statesman and historian, offered a distinctive perspective by grounding the sultan's role in a theological framework. Rather than viewing the sultan solely as a political administrator, Bitlîsî presents him as the divinely appointed caliph (*rahmânî hilâfet*) responsible for maintaining order in the corporeal world and mediating between the material and spiritual realms.¹³⁹ In this conception, the Ottoman sultan assumes a dual role as both a temporal and spiritual

¹³⁷ Şeyzerî, *Hükümdarların Siyaseti* ..., 13–14. “Bir sultan tarafından yönetilmeyen toplum, art arda esen rüzgarların ve yükselen dalgaların kuşattığı bir gemiye benzer, gemiyi leventler, yolcularını da ecel teslim alır.”

¹³⁸ Şeyzerî, *Hükümdarların Siyaseti* ..., 13–14. “Halk yeryüzündeki bitkiler gibi birbirinden farklı vasıflara sahiptir. Bitkilerin kimi güzel, temiz ve meyveli, kimi kötü ve öldürücüdür. Temiz ve yararlı bitkinin yanında fena bir bitki bulunursa, yararlı olanın yer altındaki kökleri iflâh olmaz, dalları da artıp büyüyemez. Çünkü fena bitki, yakınındakilerin öz suyunu içer, dallarını göğe doğru uzatıp yararlı bitkinin teneffüsüne engel olur. Toprak üzerinde bulunan fenalıkları ıslâh edip kötü bitkileri dışarı atınca, yararlı bitki de kendine gelir, kökleri kuvvetlenir, dalları çoğalıp büyür ve güzel meyveler verir. Halk da işte böyledir. Kötü insanlar iyilerle aynı toplumu paylaştığında, halk kendine gelip hayat bulmak için kötülerini ıslâh edecek, suçluların hakkından gelecek, azgın zâlimlerin gücünü kırarak bir sultana ihtiyaç duyar. Böylece helal kazanç elde eder, pek çok hayra nail olurlar, işler yoluna girer.”

¹³⁹ İdrîs-i Bitlîsî, *Kânûn-i Şahenşâhî*, çev. Pelin Seval Esen and Esengül Uzunoğlu Sayın (İstanbul: Timaş Akademî, 2022), 18. “Bu iki alemin bir arada bulunması, yüce lütufların zuhur etmesine “Biz seni yeryüzünde halife yaptık.” hitabını hak etmeye sebep olmuştur.” “... O halde muhakkaktır ki rahmani hilâfet, cismanî alemin nizamı ve bu şehâdet alemiyle ruhânî âlem arasında bir bağ kurmak için, bahtiyar kulun beşeriye takati kadarınca rabbani sıfatlarla ve kemallerle ittisafından ve nefsinin insani güzel melekelerle tekâmül etmesinden ibarettir. Hızla dönen bu dünya yurdunda eğer böyle bir kemal timsali, yücelik ve efendilik tahtına oturursa, ona suret ve mana sultanı derler.”

authority, legitimizing his rule as a necessary force for ensuring cosmic harmony and social order. Bitlîsî's emphasis on this dual role reflects a vision of governance rooted in Islamic cosmology, where the harmony of the world depends on the ethical and spiritual integrity of its sovereign.¹⁴⁰ Other Ottoman thinkers complemented this framework by focusing on more practical, structural and ethical aspects of just rulership. For example, Tursun Beg emphasized that the presence of a sultan was essential in every era to establish and sustain order, asserting that without his governance, society would deteriorate, and people's lives would descend into chaos and ruin.¹⁴¹ Expanding this framework into a metaphorical register, Şeyhoğlu Sadreddin Mustafa (d. 1413), a Germiyanid/Ottoman poet, employed the metaphor of the human body to illustrate the role of sultan and interdependence between the ruler and society. Just as the well-being of bodily organs relies on the health of the heart or brain, the stability of the realm hinges on the ruler and his moral uprightness.¹⁴² Moreover, in his analogy the rest of the state structure—officials, administrators, and subjects—correspond to various parts of the body, such as veins, sinews, bones, and muscles, each fulfilling a distinct yet interdependent function.¹⁴³ This metaphor not only reinforced the ruler's centrality but also echoed broader medical and philosophical conceptions of balance and harmony that is parallel to Kınalızâde Ali Çelebi's previously outlined theory of social hierarchy.

¹⁴⁰ İdrîs-i Bitlîsî, *Kânûn-i Şahenşâhî*, 18.

¹⁴¹ Tursun Bey, *Tarih-i Ebü'l-Feth*, 13. "... ammâ her rüzgârda bir pâdişâhun vücûdî hâcettür ki anun tasarruf-ı cüz'îyyatta, ber-haseb-i maslahat, her karn u her rüzgâr vilâyet-i kâmilî vardır. Ve eğer anun tedbiri munkatî' olsa, bakâ-yı eşhâs ber-vech-i ekmel suret bulmaz; belki bi'l- külli fenâ bulur. Ve ol nizâm- ki anunla mutasavverdür- fevt olur. Pes, nizâm-ı matlûb husûlî için vücûd-ı pâdişâh vâcib oldu ki, vücûdînsuz intizâm-ı ahvâl-i eşref-i mümkünât, ki nev'-i insândur; mümtenî'."

¹⁴² Şeyhoğlu, *Kenzü'l- Küberâ ve Mehekkü'l-Ulemâ*, ed. Kemal Yavuz (Ankara: Atatürk Kültür Merkezi, 1991), 92–93.

¹⁴³ Şeyhoğlu, *Kenzü'l- Küberâ ve Mehekkü'l-Ulemâ*, 92–93.

Consequently, these theological-political perspectives elevated the sultanate beyond mere temporal authority by linking it to divine governance. By drawing parallels between God's indivisible rule and the structure of political authority, political thinkers situated the sultan's role within both a temporal and metaphysical framework. The sultanate, modeled on these two intertwined dimensions, was thus portrayed as the only legitimate form of governance capable of ensuring justice, social cohesion, and the realization of *nizâm-ı âlem*.¹⁴⁴ Such a conception not only legitimized the sultan's authority, but also imposed profound obligations—ranging from moral duties to practical responsibilities of maintaining order, justice, and social harmony—thereby aligning the ruler's role with both divine will and the principles of ideal governance articulated across diverse intellectual traditions.¹⁴⁵

2.2.2 Ensuring Felicity and Loyalty: The Sultan's Duty Toward the

Re'âyâ

While the previous section examined how the sultan's authority was legitimized through theological and cosmological frameworks, this legitimacy also entailed a set of concrete expectations. Ottoman political thinkers not only elevated the sovereign's position through metaphysical claims but also emphasized his practical obligations to ensure the *nizâm-ı âlem*. Far from being a merely symbolic figure, the sultan was expected to actively secure the welfare of his subjects, safeguard social

¹⁴⁴ Yılmaz, *Caliphate Redefined* ..., 182.

¹⁴⁵ Yılmaz, *Caliphate Redefined* ..., 180.

harmony, and uphold justice across the realm. These responsibilities—deeply rooted in Islamic and Ottoman traditions of governance—constituted the foundation of effective rule. As Mustafa Âlî (d. 1600) a sixteenth century prominent Ottoman historian, bureaucrat, and intellectual, asserted, foundations of good governance and statecraft ultimately rested on protecting the people, promoting their well-being, and administering justice in ways that reflected the sultan’s role as the guardian of order.¹⁴⁶ In fulfilling these duties, the relationship between the sultan and his subjects was framed not only through institutional mechanisms but also through deeply embedded ethical principles—most notably the interconnected ideals of *emânet* (sacred trust) and *itâ‘at* (obedience). This section explores how the sultan’s responsibility to ensure the prosperity of his subjects functioned as a concrete means of realizing *nizâm-ı ‘âlem*, showing that the concept was not merely symbolic or metaphysical, but grounded in practical governance. However, before turning to the question of prosperity, this section briefly reiterates another key responsibility of the sultan: preserving social hierarchy and limiting social mobility as a means of maintaining *nizâm-ı ‘âlem*. While this duty was examined in greater detail earlier, a concise restatement is necessary here to situate it alongside the sultan’s broader obligation to ensure the well-being of his subjects.

As previously explored in greater detail, preserving the social hierarchy was regarded as an essential duty of the sultan in maintaining *nizâm-ı ‘âlem*. In this framework, the sultan was responsible for ensuring that each individual remained within their designated social role in order to prevent disorder and sustain collective

¹⁴⁶ Gelibolulu Mustafa Âlî, *Fusul-i Hall ü Akd ve Usul-i Harc ü Nakd: Müşkül Meselelerin Çözümü ve Gelir Gider Dengesi Tertibi*, ed. Süleyman Lokmacı and Rukiye Özdemir (İstanbul: Akıl Fikir Yayınları, 2020), 63. “Mâdâm ki pâdişâhlar ‘adl ü dâdî koyub zulme meyl eylemeyeler ve ahvâl-i ‘âlemden igmâz idüb fukarânın gözyaşını seyl eylemeyeler;” “Mâdâm ki pâdişâhlar ve vezîrler bu dediğimiz uslûb üzre depreneler. Sâ‘ir hâkimler dahi ‘adl ü insâfî ‘âdet idineler. Devletin binâsı ber-karâr ve saltanatları esâsı pâyidâr olur. ... Gerek re‘âyâ vü berâyâ, gerek fukarâ vü agniyâ huzûr u râhatla geçinür.”

balance. Sinan Pasha articulated this responsibility by portraying the sultan not merely as a worldly sovereign, but as the caliph of God on earth, tasked with overseeing creation in accordance with divine command.¹⁴⁷

Both early Muslim and Ottoman thinkers, such as al-Mâwardî and Hasan Kâfî al-Akhisârî, similarly framed this obligation as part of the ruler's broader duty to regulate society and integrate all individuals into a stable and functional whole. Al-Mâwardî emphasized that the ruler must ensure people live peacefully in their assigned regions and develop a sense of belonging to those regions as their homeland (*yurt*).¹⁴⁸ Building on this, al-Akhisârî argued that each individual should belong to a clearly defined social category to prevent social parasitism, warning that idle or marginal individuals posed a threat to collective wellbeing.¹⁴⁹ Al-Akhisârî even went so far as to advocate punitive measures against such individuals, though the main emphasis among intellectuals remained on the ruler's responsibility to integrate all members of society into a functional whole.¹⁵⁰

In addition to regulating the social hierarchy, the sultan's duty to maintain the *nizâm-ı âlem* also entailed safeguarding the felicity (*sa'âdet*) and prosperity (*refâh*) of his subjects. This responsibility was deeply rooted in the conception of the ruler as "God's shadow on earth" (*zillullâh fî'l-arz*), entrusted with the subjects care as a sacred

¹⁴⁷ Sinan Paşa, *Maârif-Nâme* ..., 698–700. "Çün pâdişâh halîfetu'llâh ola, ...Allâh'ın kullarını Allâh için bekleve ve âlemin nizâmını onun buyruğu ile saklaya."

¹⁴⁸ Maverdi, *Devlet Yönetiminde Ahlak ve Siyaset* ..., 90. "Birincisi halkın barışçıl bir şekilde kendi bölgelerinde ikâmet etmelerinin, orayı yurt edinmelerinin imkanını sağlamak." The term "yurt" in this context does not carry its modern nationalistic connotation of "homeland" (*vatan*). Instead, in premodern Islamic and Ottoman political thought, it referred to a settled place of residence or a territory where a community lived under stable governance. It signified a region of belonging rather than a nation-state with fixed borders. See Özlem Elif İşler, "The Evolution of a Concept: "Vatan" from Hometown to Shared Place," (unpublished Master's thesis, Bilkent University, 2024).

¹⁴⁹ İpşirli, "Hasan Kâfî El- Akhisârî ...," 252.

¹⁵⁰ İpşirli, "Hasan Kâfî El- Akhisârî ...," 252. "Pes bu makûle kimesne ehl-i İslam hükemâsı katında kendü hâline konmamak gerekdir, belki ibrâm olunup, cebr ile esnâf-ı erba'adan birine ilhâk olunmak gerekdir, tâ ki cümle esnâf ehline muzâyaka olmaya. Emmâ ba'z-ı felâsife hükemâsı katında bu makûle işsiz ve güçsüz kimesne, ki bî-menfa'at olup yürüye, katl olunmak gerekdir dimişler."

trust.¹⁵¹ In Ottoman administrative and political discourse, this idea was frequently expressed through the formula “*vedâyi ‘-i hâlik-i kibriyâ*”—the “trusts of the Almighty Creator”—to denote the subjects under the sultan’s protection.¹⁵² As the sovereign accountable solely to God, the sultan bore ultimate responsibility for the protection of his subjects (*siyânet*).¹⁵³ As Şeyhoğlu articulates, the ruler must shield the weak from harm and restrain the excesses of the powerful, treating his subjects as though they were members of his own household.¹⁵⁴ Material and physical security, in this framework, were not abstract ideals but practical prerequisites for social and economic stability: without safety, the *re‘âyâ* could neither work nor accumulate wealth, ultimately weakening both the social fabric and the imperial—a relationship formalized in the Ottoman conception of the “circle of justice” (*da‘ire-i ‘adliyye*), which will be analyzed in more detail in the following section.

This emphasis on the ruler’s protective role was further deepened by Mustafa Âlî, who argued that the sovereign must not merely safeguard his subjects but also genuinely love them.¹⁵⁵ In his conception, emotional commitment and ethical responsibility were inseparable pillars of just governance. Furthermore, Ottoman administrative and socio-political language often articulated this ideal through terms such as “*terfihü ‘l-hâl*” (“improvement of material well-being”) and “*müreffehü ‘l-bâl*” (“prosperity of the heart”), both of which appeared in archival texts to emphasize the

¹⁵¹ Halil İnalcık, *Osmanlı İmparatorluğu Klasik Çağ (1300-1600)* (İstanbul: Yapı Kredi, 2015), 73.

¹⁵² Özer Ergenç, “Osmanlı Klasik Düzeni ve Özellikleri Üzerine Açıklamalar,” in *Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet* (İstanbul: Tarih Vakfı Yurt Yayınları, 2012), 334; Hülya Taş, “Osmanlı’da ‘Şikayet Hakkı’nın Kullanımı Üzerine Düşünceler,” *Memleket Siyaset Yönetim* 2, no. 3 (April 2007): 188; Nil Tekgöl, *Emotions in the Ottoman Empire: Politics, Society and Family in the Early Modern Era* (New York, NY: Bloomsbury Academic, 2023), 47.

¹⁵³ Gelibolulu Mustafa Âlî, *Siyâset Sanatı: Nushatü’s-Selâtin*, ed. Faris Çerçi (İstanbul: Büyüyenay Yayınları, 2015), 89; Tekgöl, *Emotions in the Ottoman Empire* ..., 48.

¹⁵⁴ Şeyhoğlu, *Kenzü ‘l- Küberâ ve Mehekkü ‘l-Ulemâ*, 71. “Bunda ra ‘iyyetün hakkını yerine getürmekdür ki ra ‘iyyet pâdişâha karâbet yirindedür yâni kavmi hasm belki ehl-ü- ‘iyâl makamındadır.”

¹⁵⁵ Gelibolulu Mustafa Âlî, *Siyâset Sanatı* ..., 89. “Zirâ bu zayıf halk mahlukların yaratıcısının sultanlara emanetidir. Bu bakımdan sultanlar onları kalpten sevmelidir.”

holistic nature of good governance.¹⁵⁶ In this framework, governance was not only a matter of legal regulation or economic administration, but also an ethical practice grounded in compassion (*merhamet*).¹⁵⁷ As al-Mâwardî cautioned, a ruler must avoid the extremes of cruelty and laxity, as these lead to the unjust punishment of innocents and ultimately undermine state stability.¹⁵⁸ In this view, compassion was not merely a personal virtue but a political instrument that contributed to the durability of rule; when balanced properly, it enhanced the legitimacy of the sovereign, reinforced public trust in the administration and “*âsûde hâl*”—a tranquil and contented society.¹⁵⁹

In this context, Mustafa Âlî emphasized that the preservation of the realm—comprising both the imperial lands (*Memâlik-i Mahrûse*) and the subjects—depended on the sultan’s ability to cultivate affection and trust among the people.¹⁶⁰ He regarded this emotional bond not as a peripheral ideal but as a central pillar of effective governance. A similar perspective was offered by Abd as-Selâm al-Amâsî (d. ?), who argued that a ruler who adopted a fatherly attitude (*übüvvet*) would naturally endear himself to his subjects and reinforce their emotional attachment to his rule.¹⁶¹ Such compassionate protection and moral proximity were seen as essential for nurturing a content and prosperous *re’âyâ*—a populace whose loyalty would be secured not through coercion or fear, but through voluntary obedience (*itâ’at*).¹⁶²

¹⁵⁶ Taş, “Osmanlı’da ‘Şikayet Hakkı’nın Kullanımı Üzerine Düşünceler,” 188; Tekgöl, *Emotions in the Ottoman Empire* ..., 55-56; Zeynep Akıl, “Ottoman Political and Social Organizations and Non-Muslims in the Pre-Modern Era,” (unpublished Master’s thesis, Bilkent University, 2023), 35.

¹⁵⁷ Tekgöl, *Emotions in the Ottoman Empire* ..., 48-49.

¹⁵⁸ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset* ..., 60-61.

¹⁵⁹ Tekgöl, *Emotions in the Ottoman Empire* ..., 55-56; Akıl, “Ottoman Political and Social Organizations ...,” 35.

¹⁶⁰ Gelibolulu Mustafa Âlî, *Fusul-i Hall ü Akd* ..., 58. “Bu dahî ma’lûm ola ki pâdişâhların mülk-i devleti bekâsı evvelâ sipâh u re’âyâyâ ve cem’i ulemâ vü sulehâyâ kendiyi sevdirmekle olur.”

¹⁶¹ Sariyannis, *A History of Ottoman Political Thought* ..., 93.

¹⁶² Özer Ergenç, “Toplumsal Düşünce Açıklama Kanalı Olarak “Cem-i Gafir ve Cem’i Kesir” in Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet (İstanbul: Tarih Vakfı Yurt Yayınları, 2012), 448; Bernard Lewis, *The Political Language of Islam* (Chicago: Chicago University Press, 1988), 91; Tekgöl, *Emotions in the Ottoman Empire* ..., 46-47.

This emphasis on emotional closeness and moral governance finds a modern echo in Nil Tekgöl's work, where she explores "*mahabbet*" as a central emotional and political category in pre-modern Ottoman political thought. In her analysis, *mahabbet* is more than a personal sentiment of love; it is a codified, hierarchical form of affection that functions as a mechanism of loyalty and legitimacy.¹⁶³ It signifies a mutual but asymmetrical bond: the sultan offers justice, compassion, and protection, and in return, subjects offer obedience and gratitude.¹⁶⁴ Tekgöl argues that when the sultan governs justly, maintains proximity to the people, supports the dervishes, and avoids tyranny, this relationship deepens into "*meveddet*"—a stronger, spiritually infused attachment wherein the subject's loyalty resembles the obedience due to God.¹⁶⁵ This emotional-political bond was not merely idealistic rhetoric but formed a normative expectation within Ottoman governance.¹⁶⁶ It was actively cultivated through ethical treatises, symbolic language, and political discourse. Concepts such as "*telîf-i kulûb*" ("harmonization of hearts"), *rızâ* ("contentment"), and *şükran* ("gratitude") were tightly interwoven with the practice of rule and the expectations of the ruled.¹⁶⁷

This emotionally infused conception of loyalty was closely linked to the broader political and theological discourse of *ita'at* (obedience) and *emânet* (trust), through which the ideal relationship between ruler and subjects was further codified in Islamic and Ottoman thought. In this framework, *ita'at* was not viewed as passive submission but as a reciprocal and moral duty grounded in the divine trust vested in

¹⁶³ Tekgöl, *Emotions in the Ottoman Empire* ..., 64–67.

¹⁶⁴ Tekgöl, *Emotions in the Ottoman Empire* ..., 64–67.

¹⁶⁵ Tekgöl, *Emotions in the Ottoman Empire* ..., 67; Kınalızâde Ali Çelebi, *Ahlâk-i Alâ'î*, 431.

¹⁶⁶ Tekgöl, *Emotions in the Ottoman Empire* ..., 67–68.

¹⁶⁷ Tekgöl, *Emotions in the Ottoman Empire* ..., 68; Özer Ergenç "'İdeal İnsan Tipi"' Üzerinden Osmanlı Toplumunun Evrimi Hakkında Bir Tahlil Denemesi," in *Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet* (İstanbul: Tarih Vakfı Yurt Yayınları, 2012), 425.

the ruler.¹⁶⁸ As Ahmedî (d. 1413) succinctly put it, “Everyone who serves the one chosen by God will be fortunate,” underscoring the belief that rightful obedience brings prosperity.¹⁶⁹ Likewise, Al-Mâwardî, emphasized this connection between obedience and trust with the following statement:

No one is more deserving of prudence and compassion, followed by governance and diligence, than the one entrusted with the affairs of the people. For the people are the subjects whom Allah has made his responsibility—to safeguard, oversee, and manage their affairs—and Allah will hold him accountable for them. Indeed, Allah has shielded him from their objections concerning his actions, prevented refutations against his judgments, and made obedience to him obligatory, binding the people to submit to his rule. Their conduct is to be shaped by his commands and prohibitions.¹⁷⁰

Echoing al-Mâwardî’s formulation, Ottoman thinkers held that the ruler must cultivate public devotion (*rağbet*) by governing with compassion, integrity, and justice. Such devotion, Mâwardî argues, was essential for sustaining social cohesion, fostering voluntary obedience, and reinforcing the ethical foundations of political legitimacy.¹⁷¹ Once this emotional and moral bond was broken, legitimacy became fragile. Subjects might still outwardly obey, but concealed resentment could accumulate—waiting to surface in moments of instability.¹⁷²

¹⁶⁸ Ahmedî, *İskendernâme*, trans. Furkan Öztürk (İstanbul: Türkiye İş Bankası, 2023), 151. “... *Hakk’ın seçtiği kişiye / Hizmet eden herkes bahtiyar olur / Devletin hizmetine / Ney gibi kemer bağlamayan kem er olur / Baht Keyd Şah’a eğer yoldaş olursa / O bana sadakatle bağlanır / Kendini kullukla arz eylesin / Bana itaati canına farz eylesin ...*”

¹⁶⁹ Ahmedî, *İskendernâme*, 151.

¹⁷⁰ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset ...*, 78. “Hiç kimse, ihtiyat ve merhamete, sonra idare ve gayrete, halkın işlerini yürütmekle sorumlu olan kişi kadar layık değildir; çünkü halk, Allah’ın ona emâneti, gözetmekle, çobanlığını yapmakla ve işlerini yürütmekle sorumlu tuttuğu reayasıdır; onlardan onu soracak olan da Allah Teâlâ’dır. Çünkü onun içtihatlarına yönelik reddiyelerin önünü kesmiş, halka ona itaat etmeyi zorunlu ve onun hükmüne boyun eğmeyi bağlayıcı kılmış, davranışlarının onun emir ve nehiyleri arasında gerçekleşmesini emretmiştir. Nitekim Allah Teâlâ şöyle buyurmuştur. “Ey İmân edenler, Allah’a itaat edin. Peygamber’e ve sizden olan emir sahiplerine de itaat edin.”

¹⁷¹ Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset ...*, 99–100.

¹⁷² Maverdî, *Devlet Yönetiminde Ahlak ve Siyaset ...*, 99–100. “Gönüllülük (*rağbet*) kalplerin birbirine ısınmasına rızaya dayalı itaate, şefkat ve merhamete, samimi ilişkilere sevkeder. Gönüllülük esası ülkenin muhafazasını sağlayan en güçlü sebeplerden biridir. Hükümdar bu ilkeyi halktan kopardığında, onların nezdinde onun bir hükmü kalmaz artık; itaat ediyormuş gibi yapıp ayağının kaymasını bekler, fırsat kollar sıkıntılar baş gösterdiğinde ise isyâna yeltenir hemen. ... Gönüllülük ve korku bit araya

2.2.3 Administering Justice as the Foundation of *Nizâm-ı Âlem*

Although the preservation of social hierarchy, the welfare of the *re'âyâ*, and divine sanction were all central pillars of the sultan's authority, justice (*'adâlet*) stood as the essential axis around which both the political and cosmic order revolved. In Ottoman and Islamic thought, justice was conceptualized both as a personal virtue that the ruler was expected to embody, and as a structural and institutional principle that upheld legitimacy, restrained oppression, ensured the long-term stability of the realm, and maintained the *nizâm-ı âlem*. This section examines how early modern Ottoman political thinkers theorized justice as the most vital mechanism for realizing the ideal of *nizâm-ı âlem*.

Justice appears not merely as a personal virtue but as the cornerstone of political legitimacy and the sustaining force behind the *nizâm-ı âlem*. It secures obedience, nurtures public confidence, and ensures the continuity of the social and cosmic order. Islamic and Ottoman thinkers consistently reiterated this point across various intellectual traditions. Al-Zamakhsharî (d. 1143) illustrates the intrinsic link between justice and obedience through a well-known anecdote: when Khosrow (Kisrâ) asked his *mubadh* (Zoroastrian judge), “What brings glory to a ruler?” the judge responded, “Obedience.” Upon further inquiry—“And what ensures obedience?”—the answer was clear: “Kindness to those closest to him and just governance toward the

geldiğinde, umut halkı itaate sevkedecek, korku da onların isyanına mani olacaktır. Böylece bir yandan umutlar yayılırken diğer yandan hep çekinmeye devam edeceklerdir. Bu da hükümdarın otoritesini güçlendirecek ve onun yönetiminde kendisine yardımcı olan adamlarına nizam verecektir.”

people.¹⁷³ This story illustrates that legitimate authority depends not on fear or force, but on just governance and equitable treatment. In this sense, justice underpins the ruler's relationship with both his inner circle and broader society. In a similar spirit, al-Shayzarî, claimed, God grants divine support to rulers who refrains from oppression, and such a ruler earns the sincere obedience of the people.¹⁷⁴ These perspectives demonstrate that justice served as the vital link between authority and contentment—binding ruler and subjects together through a shared moral and political framework and necessary instrument for sustaining the *nizâm-ı âlem*.

In Ottoman and broader Islamic political thought, justice was not equated with absolute equality, but rather understood as the preservation of proportional balance and the prevention of oppression (*zulm*). While justice was considered as a natural equilibrium in one's body and in the social structure, oppression was reflected as disequilibrium and governing without a balance in three primary virtues: wisdom, chastity and courage.¹⁷⁵ Within this framework, *zulm* encompassed a range of destructive practices: illegal taxation, corruption, bribery, arbitrary punishment, and violence.¹⁷⁶ Halil İnalçık emphasized that the sultan's foremost duty was to prevent such oppression, especially when committed by those who exercised authority in his name.¹⁷⁷ This perspective is echoed by Sinan Pasha, who maintained that true justice

¹⁷³ Zemahşerî, *Âlemin Nizâmı: Hükümdara, Adalet ve Zulme Dair Rebiü'l-Ebrar'dan Seçmeler*, trans. Kübra Öztürk (İstanbul: Timaş Akademi, 2023), 15. “Bir gün Kısra mübezâna şöyle sordu: “Tek bir şey vardır ki sultan onunla izzet kazanır; (söyle) nedir bu? Mübezân “İtaat” cevâbını verdi. Kısra “Peki itaatin sebebi nedir?” diye sordu Mübezân dedi ki: “Yakınındaki adamlara dostça, sevgiyle muamele etmek ve halkın işlerinde âdil olmaktır.”

¹⁷⁴ Şeyzerî, *Hükümdarların Siyaseti ...*, 34. “Erdeşir’e “Kimseden korkmayan kişi kimdir?” diye soruldu. Dedi ki: “Hükümünde âdil olan, insanlara zulmetmeyen kişiye Hak yardım eder, halk da itaat eder, kendisine nimetler bahşedilir, dünya ona doğru gelir, mübarek bir yaşam sürer, orduya ihtiyaç duymaz, kalpleri fetheder, harpten emin olur.”

¹⁷⁵ M. Safa Saraçoğlu, “Economic Interventionism, Islamic Law and Provincial Government in the Ottoman Empire,” in *Law and Legality in the Ottoman Empire and Republic of Turkey*, ed. Kent F. Schull et. al (Indiana: Indiana University Press, 2016), 75.

¹⁷⁶ Saraçoğlu, “Economic Interventionism ...,” 75; Ergene, “On Justice ...,” 59–60.

¹⁷⁷ Halil İnalçık, “State, Sovereignty and Law During the Reign of Süleymân,” in *Süleymân the Second and His Time*, ed. Halil İnalçık and Cemal Kafadar (New Jersey, NJ: Gorgias Press, 2010), 60.

required not only a virtuous ruler but also morally upright administrators; oppression by officials, in his view, reflected directly back on the sovereign himself.¹⁷⁸ A complementary perspective is offered by Mustafa Âlî, who grounded this responsibility in a theological framework. According to him, God, in His wisdom, appointed sovereigns as His representatives to govern the world and charged them with ensuring justice.¹⁷⁹ This responsibility extended to key officials—viziers, judges, and commanders (*emîrler*)—who were expected to assist the ruler in fulfilling his duty through governance and statecraft (*tedbîr ve siyâset*).¹⁸⁰ Ultimately, however, the sultan bore personal accountability for the just treatment of his subjects. Yet structural safeguards against injustice were only part of the equation. The ruler’s own ethical integrity and capacity for moral judgment were seen as equally indispensable to the realization of justice.

Complementing this political and theological framework, many Ottoman thinkers also emphasized the personal, ethical dimension of justice, grounding it in the ruler’s moral character. Ottoman intellectuals emphasized that just governance could only be achieved by a sovereign whose character embodied the moral values he was tasked with upholding. Among them, Ahmedî notably foregrounded justice as the defining virtue of the sultan. By doing so, he situated the ruler’s authority not only in his political power but in his moral conduct.¹⁸¹ This perspective highlights the centrality of charisma and moral perfection (*kemâl*) in rulership: the sultan was

¹⁷⁸ Sinan Paşa, *Maârif-Nâme* ..., 678. “Pâdişâh âdil olduğu nedir, âmilleri zâlim olucak, ve sultânda kıst mı olur vâlîleri gâşim olucak.”

¹⁷⁹ Gelibolulu Mustafa Âlî, *Fusul-i Hall* ..., 56–57.

¹⁸⁰ Gelibolulu Mustafa Âlî, *Fusul-i Hall* ..., 56–57. “... Hakk Subhâne ve Te’âlâ yer yüzündeki kullarına pâdişâhlar nasb eyledi. Ve anların taht-ı hükminde vezîrler ve kâdılar ve emîrler nâmına ba’zı bellü başlı âdemlere imtiyâz virdi ki gerek ‘adâletle hükümetde gerek hüsn-i tedbîr ve siyâsetde ol pâdişâhlara mu’in ü zahîr olalar.”

¹⁸¹ Ahmedî, *İskendernâme*, 586. “... Başkente geldi ve sevinç içinde oturdu / Memleket adaletle hüküm sürdü / Halk onda bu adaleti bulunca / Büyüğü küçüğü işle meşgul oldu / Bütün Rum içinde onun adaletiyle / Abat olmadık bir yer kalmadı ...”

expected to embody justice both as an expression of religious virtue and as a means of ensuring the welfare of his subjects.¹⁸²

Building upon this ethical conception, later thinkers such as Kınalızâde Ali Çelebi and Sinan Pasha extended the role of justice from a personal virtue to a foundational principle of political legitimacy and societal order. Kınalızâde reinforces the inseparable connection between justice and rulership by emphasizing the sovereign's role as the guarantor of social balance. In his view, justice is not a secondary tool of administration but the very essence of legitimate rule. He asserts that "a just ruler rectifies and balances; he weakens the strong side and strengthens the weak. And this justice—which is necessary—must be upheld by the sovereign, who eliminates oppression and injustice and removes the hand of tyranny and domination."¹⁸³ Sinan Pasha echoes this view, arguing that the sultan must govern with fairness, ensuring that the innocent are not punished and the guilty are not excused.¹⁸⁴ In both perspectives, justice is not simply a corrective measure against disorder but the foundational principle that defines the ruler's legitimacy and secures the socio-political order of the state. Only through just rule could the sultan maintain order, safeguard social stability, and preserve the longevity of his reign.¹⁸⁵ This commitment to justice was most clearly reflected in how rulers treated the most vulnerable members of society.

¹⁸² Sariyannis, *A History of Ottoman Political Thought* ..., 47.

¹⁸³ Kınalızâde, *Ahlâk-i Alâ'î*, 131. "... nâtk-ı adil ta'dil ü tesviye ve cânib-i kavî taz'if ve cânib-i za'ife takviye ede. Ve bu adil- ki lazımdır- padişah-ı hakimdir ki zulmü vü cevri def' ve dest-i ta'addi vü tagallüb ü ref' eder."

¹⁸⁴ Sinan Paşa, *Maârif-Nâme* ..., 689–93. "Afv şu kadar gerekmez ki sebeb ola pâdişâha cür'et etmeğe, ve rahmet şu denli hâcet değil ki bâis ola ona isâet etmeğe ... Afv etmek olmaz şu kişiye ki müstevcib-i ukubet ola; ukubet etmek olmaz şu kişiye müstehikk-i mesûbet ola;" Sinan Paşa, *Maârif-Nâme* ..., 670–71. "... ehline afv ederse, yerinde siyâset ede; ahyâra lutf ederse, eşirrâya ukubet ede. Pâdişâhlara hem rahım gerek hem celâdet gerek, ve selâtine hem şefkat gerek hem salâbet gerek. Eğer siyâset olmaz, riyâset olmaz, ve eğer şefkat olmaya raiyyet dirilmez."

¹⁸⁵ Sariyannis, *A History of Ottoman Political Thought* ..., 46–52.

The just governance of subjects occupies a central position in both Islamic and Ottoman political thought, particularly through the protection of the weak (*zu 'efâ*) and the poor or destitute (*fukarâ*), terms frequently employed in Ottoman political rhetoric.¹⁸⁶ Importantly, these categories did not merely denote individuals in material deprivation, but symbolized those in need of moral protection and equitable governance—individuals whose well-being depended on the ruler's just conduct.¹⁸⁷ This ethical imperative finds a powerful expression in a transmission recorded by al-Zamakhsharî from Abu Dharr (d. ?). In the ten scriptures (*suhûf*) revealed to Prophet Ibrahim, God addresses oppressive rulers: "I did not send you to rule over the entire world, but rather to resolve the grievances of the oppressed so that they need not bring their pleas before Me. Even if the oppressed is a disbeliever, I do not reject their supplication."¹⁸⁸ This statement reframes rulership as a moral responsibility rather than a privilege, and justice as a universal obligation that transcends religious identity. In this framework, the sovereign is judged not by conquest or lineage, but by their capacity to protect the voiceless and uphold equity. This moral vision of justice was not confined to abstract ideals but found institutional expression in the language of governance. In Ottoman archival documents, this was captured by the complementary concepts of "*zabt*" and "*rabt*," which articulated the relationship between justice and social order. While *zabt* refers to the just and orderly governance of the population—emphasizing the ruler's capacity to impose discipline and uphold moral regulation—*rabt* denotes the resulting condition of security, prosperity, and cohesion among the

¹⁸⁶ Ergenç, "İdeal İnsan Tipi" Üzerinden ..., 424; Berrak Burçak, "Osmanlı 'Zımni Sözleşme'sinin Peşinde: Osmanlı Klasik Döneminde Yöneten-Yönetilen İlişkisi Üzerine," in Prof. Dr. Özer Ergenç'e Armağan, ed. Ümit Ekin (Ankara: Bilge Kültür Sanat, 2013), 119.

¹⁸⁷ Tekgöl, *Emotions in the Ottoman Empire* ..., 48.

¹⁸⁸ Zemahşerî, *Alemin Nizamı* ..., 25. "Ey (insanlara) musallat olmuş, belâya düşmüş mağrur hükümdar! Ben seni dünyanın ucunu bucağına getiresin (yani tüm dünyaya sahip olasın) için göndermedim. Lâkin seni, mazlumların duasını benden geri çevir (yani benim katıma gelmesine gerek kalmadan sen onların müşkilini çöz) diye gönderdim. Zirâ ben, kâfir dahi olsa mazlumun duasını geri çevirmem."

subjects.¹⁸⁹ Together, these terms reflect a holistic vision of imperial administration, in which justice is not only a moral ideal but an active mechanism for structuring collective life. In this framework, the proper implementation of *zabt* by the ruling authority is understood to generate *rabt* within society, thereby sustaining the stability of the realm and the legitimacy of the state.

In addition to its institutional articulation, Ottoman thinkers sought to define justice as a structured ethical and legal principle. Sixteenth century Ottoman thinkers such as Abd al-Selâm al-Amâsî and Kınalızâde Ali Çelebi systematized justice into three primary domains: (1) equity in the distribution of wealth and status, (2) fairness in financial transactions, and (3) proportionality in punishment.¹⁹⁰ These forms were all rooted in the principle of moderation (*evsât*) and the pursuit of moral balance through law.¹⁹¹ For them, justice was the condition that preserved social order, while both excess and deficiency in its application were forms of injustice. This Aristotelian conception of justice as a ‘golden mean’ was central to the thinking of both al-Amâsî and Kınalızâde. They both argued that justice is unique among the virtues because both its excess—granting more than is deserved—and its deficiency—granting less or tolerating injustice (*inzilâm*)—lead to *zulm*.¹⁹² While some scholars saw only tyranny

¹⁸⁹ Burçak, “Osmanlı ‘Zımnî Sözleşme’sinin Peşinde ...,” 121–22.

¹⁹⁰ Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ’î*, 129. “*Pes ma’lûm olsun ki hukemâ katında adâlet üç nesnede olur: Birisi kismet-i emvâl ü kerâmâtıdır; ya’nî iki şahsa bir mikdâr mâl yâ kerâmet ü mertebe taksîm olursa adâlet gerek, ya’nî vasat- ki i’tidâldır- ma’lûm u mer’î olub andan bir cânibe tahattî vü ta’addî etmemek gerek. İkincisi mu’âmelât u mu’âvazâtıdır; bey’ ü şîrâ ve icâre vü rehn gibi. Üçüncüsü te’dibâta müte’allik hudûd u siyâsât u kısâsât u ta’zîrâtıdır. Ve her birinde tenâsüb-i ri’âyet olıcak adâlet hâsıl olur. Meselâ bir şahs, âhere hayf ü ta’addî eylese, ana dahi misli olunmak gerek ki tenâsüb olub adâlet olmuş ola.*” The term *equity* as used here does not refer to its modern legal or political connotations associated with egalitarianism or rights-based frameworks. In the context of sixteenth-century Ottoman thought, particularly as articulated by figures like Kınalızâde, *equity* denoted a distributive ideal rooted in proportionality and merit. Justice entailed giving each their due—not treating all equally, but rather allocating wealth, rank, and punishment in accordance with one’s position, role, and deservingness within the social and moral order.

¹⁹¹ Sariyannis, *A History of Ottoman Political Thought ...*, 79; Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ’î*, 129–30. “*Pes mertebe-i vasat u adâlet- ki hiç ahada hayf olmaya- ma’lûm olmak gerek. Ve bu mertebeye ‘mizânullahi te’âlâ fi’l-arz’ derler.*”

¹⁹² Sariyannis, *A History of Ottoman Political Thought ...*, 79; Kınalızâde Ali Çelebi, *Ahlâk-ı Alâ’î*, 131–33.

as a moral failure, Kınalızâde insisted that allowing oneself to be oppressed equally disrupted the moral and social fabric.¹⁹³ Together, their views produced a bilateral understanding of injustice: both committing tyranny and remaining silent in the face of it were seen as obstacles to social harmony and the preservation of *nizâm-ı âlem*.

The implications of failing to uphold this ethical balance were powerfully illustrated by pre-modern thinkers such as al-Shayzarî and al-Zamakhsharî, who used metaphor and moral reasoning to emphasize the fragility of social order. Al-Shayzarî employed a powerful metaphor of society as a garden, in which individuals are likened to plants possessing varying qualities—some virtuous and beneficial, others harmful and destructive. When the harmful grow unchecked alongside the beneficial, they sap their nutrients, hinder their growth, and obstruct their vitality. Similarly, the unchecked presence of malicious individuals within a community undermines the well-being of the virtuous and disrupts social harmony. To restore order, a just sultan must reform the wicked, punish wrongdoers, and restrain oppressors.¹⁹⁴ A similar moral logic appears in the earlier writings of al-Zamakhsharî, who asserts that justice is not truly upheld when the oppressed are denied fairness or when wrongdoers go unpunished—failures that correspond directly to the breakdown of legal and moral order.¹⁹⁵ Taken together, these two thinkers highlight that justice is indispensable to the preservation of social and political order; without it, chaos and disorder inevitably follow.

These moral and metaphorical reflections on justice were not isolated insights but informed a broader structural understanding of governance. Around the concept of

¹⁹³ Sariyannis, *A History of Ottoman Political Thought* ..., 79.

¹⁹⁴ Şeyzerî, *Hükümdarların Siyaseti* ..., 13.

¹⁹⁵ Zemahşerî, *Alemin Nizamı* ..., 34. “Bir adam Ebu’l-Devânîk’a yani Mansûr’a şöyle dedi: “Emeviler döneminde konuştuğun şeyler nerede kaldı?! Mazlumlara insaf edip zalimlerin karşılığını vermezsen, halkına adaletle muâmele etmez, ganimetleri eşit şekilde taksim etmezsen, neticede hilâfet helak olur, bu hilâfetin yöneticileri de kötü bir azaba uğrar.”

nizam-ı alem, the ruler, good governance, and justice have often been considered interdependent elements. In Ottoman and earlier Islamic advice literature, these relationships were frequently expressed through the metaphor of the “circle of justice” (*da’ire-i ‘adliyye*), a model that presented ideal social and political order as an interdependent system maintained through justice. However, the idea of the *da’ire-i ‘adliyye* has much older roots. As Linda T. Darling has shown, this model of governance—linking the prosperity of the people to just rule—can be traced back to ancient Mesopotamian political thought.¹⁹⁶ In her analysis, the *da’ire-i ‘adliyye* is not unique to Islamic or Ottoman political theory but forms part of a broader Middle Eastern tradition in which justice is viewed as a necessary condition for good governance. By tracing this idea across time and geography, Darling underscores its enduring role in shaping ideals of rulership in the region. For instance, *Kutadgu Bilig* offers a vivid formulation of this model:

To sustain the state, an army and people are necessary.
To sustain the people, wealth and livestock are essential.
Wealth is obtained through the prosperity of the people, and the people prosper only under righteous laws.
If one of these fails, all four collapse, and with them, the state crumbles.¹⁹⁷

A similar vision appears in the *Kâbusnâme* as follows: “Know this! Sovereignty is gained through the army, and the army through gold, gold is acquired through prosperity, and prosperity can only spread through justice and fairness.”¹⁹⁸ This logic was reiterated by Ottoman thinkers such as al-Akhisarî, who argued that “the stability

¹⁹⁶ Linda T. Darling, *A History of Social Justice and Political Power in the Middle East: The Circle of Justice from Mesopotamia to Globalization* (New York, NY: Routledge, 2013), 1–7.

¹⁹⁷ Yusuf Has Hacib, *Kutadgu Bilig*, ed. Halil Aşçı (Ankara, Gençlik Yayınları: 2019), 183. “İl tutmak için erat ve ordu gerek; eratı tutmak için de mal, davar gerek. Bu malı elde etmenin gereği halkın zengin olmasıdır. Halkın zenginliği için doğru yasalar konulmalıdır. Bunlardan biri kalırsa dördü de kalır. Dördü de kalırsa beylik çürür.”

¹⁹⁸ Halil İnalcık, “Kutadgu Bilig’de Türk ve İran Siyaset Nazariye ve Gelenekleri,” in *Osmanlı’da Devlet, Hukuk ve Adâlet*, ed. Cüneyt Dalgakıran (İstanbul: Kronik Kitap, 2016), 17.

of kingship and sultanate is dependent on the presence of men, specifically troops. These troops, in turn, require wealth to exist, and wealth can only be generated if the country flourishes. The flourishing of the country, however, is contingent upon the implementation of justice and sound governance.”¹⁹⁹

This interdependent model was famously and elaborately explained by Kınalızâde Ali Çelebi in his *Ahlâk-ı Alâî*. He described a causal chain in which the ruler’s power depends on soldiers, soldiers on revenue, revenue on the people’s prosperity, and prosperity on justice.²⁰⁰ In a similar vein, Tursun Beg underscored justice as the force holding together different social groups, warning that without it, social equilibrium would dissolve, authority would erode, knowledge would lose its function, and the ruler’s legitimacy would crumble.²⁰¹ Kınalızâde and Tursun Beg did not merely describe this model but used it to underscore that justice was both the origin and the outcome of well-functioning governance. Moreover, most sixteenth century Ottoman intellectuals reiterated this vision in various forms, consistently portraying justice as the linchpin of state and society.²⁰² Thus, justice was regarded as the linchpin of state-society relations, ensuring stability, preventing oppression, and legitimizing the ruler’s authority. Furthermore, a ruler who failed to uphold justice not only undermined his own authority but risked triggering a cascade of disorder, corruption,

¹⁹⁹ Hagen, “Legitimacy and World Order,” 65; İpşirli, “Hasan Kâfi El- Akhisârî ...,” 254–55. Hagen argues that al-Akhisârî’s model of order lacks the circular structure commonly found in other formulations of Ottoman political thought.

²⁰⁰ Kınalızâde, *Ahlâk-ı Alâî*, 532. “Adldür mucib-i salah-ı cihan, Cihan bir bağdur divari devlet, Devletin nazımı şeriatdür, Şeriate olamaz hiç haris, illa mülk; Mülk zabt eylemez, illa leşker, Leşkeri cem’ idemez, illa mal, Malı cem’ eyleyen raiyyetdür, Raiyyeti ku ider padişah-ı aleme adl.”

²⁰¹ Tursun Bey, *Târih-i Ebû'l-Feth*, 18. “Ve kelim-i hikem-âmûz-ı hükemâdan menkûldür ki, biş nesne biş nesne vücûdunsuz hilye-i kemâlden âtıl olur. Terâzü-yi bî-zebâne-i şâhîn müstakim göstermez, ve şemşîr-i âbdâr-ı bî-zenende nîk kâr-ger olmaz, ve kelâm-ı bî-ziver-i sîdk-ârâyîş revâyîş bulmaz, ve ilm-i bî-hüsni amel netice virmez, ve melik-i bî-adl pâydâr olmaz.”

²⁰² Sariyannis, *A History of Ottoman Political Thought ...*, 91–92.

and disintegration.²⁰³ In contrast, the just ruler—who embodied and enacted justice—was viewed as essential to the preservation of *nizâm-ı âlem*.

In sum, justice in Ottoman political thought was a vital mechanism through which the ideal of *nizâm-ı âlem* was to be realized. It structured the relationship between ruler and ruled, shaped the expectations of good governance, and provided the moral rationale for both obedience and authority. Ottoman and Islamic thinkers consistently emphasized that only through the active and balanced exercise of justice—across ethical, administrative, and legal domains—could social harmony be preserved and legitimate rule sustained. As such, justice was the operational core of imperial order—aligning divine sanction, political stability, and public welfare. Yet the implementation of justice was not solely a top-down process. As the next section demonstrates, it was also shaped through the voices and actions of the subjects themselves, whose petitions, grievances, and public appeals formed a vital part of the Ottoman imperial order.

2.2.4 Participating in Justice: Petitioning, Grievance, and the Moral Dialogue Between Ruler and Ruled

The realization of justice, in practice, depended on sustained interaction between ruler and subjects. Ottoman political thought and administrative practice envisioned justice not as a one-sided command but as a reciprocal process, grounded

²⁰³ Sariyannis, *A History of Ottoman Political Thought* ..., 52.

in the idea that the *re'âyâ* were both the beneficiaries and the guarantors of just governance. This section explores how justice was enacted through institutionalized channels of complaint, petitioning procedures, and performative acts of supplication—mechanisms that allowed the governed to speak back to power. Far from being passive recipients of imperial authority, Ottoman subjects actively participated in defining and defending the moral boundaries of governance, thus contributing to the maintenance of *nizâm-ı âlem* as a shared, negotiated ideal.

To facilitate this interaction, the Ottoman state developed a set of administrative practices that institutionalized access to the sovereign and created avenues for accountability, particularly in cases of abuse by provincial or local officials. Chief among these was the sultan's obligation to remain accessible to his subjects through formal channels of complaint (*şikâyet*) and petition. This allowed the ruler to monitor the actions of his officials, correct injustices, and reinforce his role as the guarantor of justice. In practice, this often took the form of designated days for public hearings, written petitions submitted through imperial chancelleries, or direct appeals made to the palace. By maintaining these avenues of redress, the Ottoman state not only institutionalized justice as a governing principle but also reaffirmed the sultan's personal responsibility for the moral and material well-being of his subjects. These mechanisms served as a vital counterbalance to the discretionary power of provincial and local authorities, ensuring that the ideals of justice were translated into enforceable practice across the empire.

Although some scholars, such as Gottfried Hagen, have characterized Ottoman subjects as largely passive recipients of justice within the framework of *nizâm-ı âlem*—arguing that questions of legitimacy were primarily the concern of the learned elite rather than the broader taxpaying population—this perspective may understate

the participatory dimensions of Ottoman political culture.²⁰⁴ Political treatises, court records, and petitions reveal that ordinary people not only invoked their rights and appealed to ethical norms, but also contested imperial decisions when necessary. Justice, in this sense, was not a distant abstraction imposed from above, but a lived and negotiated process. Through formal petitions, public protest, and symbolic appeals, Ottoman subjects engaged the imperial justice system with agency and moral expectation.²⁰⁵ In doing so, they helped sustain a vision of *nizâm-ı âlem* not as a static hierarchy, but as a dynamic moral order continually shaped through reciprocal accountability between ruler and ruled.

One of the clearest examples of public participation in the Ottoman justice system was the formal petitioning process. The anonymous political treatise *Hırzû'l-Mülûk* emphasizes that the sultan must accept all petitions (*ruk'a*) submitted by his subjects during public appearances—a duty grounded in his obligation to protect the *re'âyâ* and uphold justice. This mechanism not only reinforced the moral bond between sovereign and subject but also served as a safeguard for internal stability and the preservation of *nizâm-ı âlem*. In a similar vein, another anonymous work, *Kitâb-ı Mesâlih*, recommends appointing muftis in provinces to spare impoverished subjects

²⁰⁴ Hagen, “Legitimacy and World Order,” 81–82.

²⁰⁵ For more on the functioning of the complaint mechanism in the Ottoman Empire; see H. G. Majer, *Das Osmanische Registerbuch der Beschwerden vom Jahre 1675* (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1984); Coşkun Üçok, “Türk Hukuk Tarihi Rakımından Devlet Arşivinden İstifade İmkanları,” *Ankara Üniversitesi Hukuk Fakültesi Dergisi* 8, no. 1 (March 1951): 696–702; Halil İnalcık, “Şikâyet Hakkı: ‘Arz-i Hâl ve ‘Arz-i Mahzar’lar,” in *Osmanlı’da Devlet, Hukuk ve Adâlet*, ed. Cüneyt Dalgakıran (İstanbul: Kronik, 2016), 61–72; Feridun M. Emecen, “Osmanlı Divanının Ana Defter Serileri: Ahkâm-ı Mîrî, Ahkâm-ı Kuyûd-ı Mühimme ve Ahkâm-ı Şikâyet,” *Türkiye Araştırmaları Literatür Dergisi*, no. 5 (May 2005): 107–39; Suraiya Faroqhi, “Political Activity among Ottoman Taxpayers and the Problem of Sultanate Legitimation (1570–1650),” *Journal of the Economic and Social History of the Orient* 35, no. 1 (1992): 1–39; Michael Ursinus, *Grievance administration (şikâyet) in an Ottoman province: The Kaymakam of Rumelia’s Record Book of Complaints of 1781–1783* (New York, NY: RoutledgeCurzon, 2005); Taş, “Osmanlı’da Şikâyet Hakkının Kullanımı ...,” 186–204; Murat Tuğluca, *Osmanlı Devlet-Toplum İlişkisinde Şikâyet Mekanizması ve İşleyiş Biçimi* (Ankara: TTK, 2024).

the burden of traveling to Istanbul for obtaining fatwas.²⁰⁶ This suggestion reflects the treatise's broader concern with making justice accessible and highlights the sultan's responsibility to create administrative structures that promote the welfare of his subjects.²⁰⁷

Archival evidence further highlights the centrality of petitions as a communicative bridge between subjects and the imperial center. As Halil İnalcık noted, the Ottoman archives contain numerous registers of grievances (*defter-i şikâyet*), which document how both Muslim and non-Muslim subjects—often collectively—submitted complaints against local officials.²⁰⁸ These petitions were far from symbolic; they frequently triggered concrete administrative responses and actions. Furthermore, imperial decrees (*fermân*) were regularly issued in response to such complaints, demonstrating that the sultan's authority was exercised in dialogue with his subjects. This participatory nature was often formalized in the very language of imperial decrees, which typically opened with references to the petitioners—for example, by stating that the “... *tâ'îfesi/re'âyası âdem gönderüb...*” (... group of subjects sent a person ...) to the imperial center. Such formulations underscored that these edicts were not abstract commands, but direct responses to appeals from the governed. Additionally, explicitly referenced the complainants—citing their names or noting that the matter had been “presented to the imperial hearing” (*sem'-i hümayûnuma ilkâ olunmağla*), thereby affirming the participatory dimension of Ottoman governance.²⁰⁹

²⁰⁶ Yaşar Yücel, *Osmanlı Devlet Teşkilâtına Dair Kaynaklar: Kitâb-ı Müstetâb, Kitâbu Mesâlihi'l-Müslimîn ve Menâfi'i'l-Mü'mîn* (Ankara: TTK, 1989), 127–128.

²⁰⁷ Sariyannis, *A History of Ottoman Political Thought* ..., 154.

²⁰⁸ İnalcık, “Şikâyet Hakkı ...,” 63–64.

²⁰⁹ Berrak Burçak and Özer Ergenç “İmge ve Siyâset: “Sem’-i Hümayûn”” *Journal of Turkish Studies* 39 (2013): 274.

A compelling example of this participatory mechanism is a decree dated August 4, 1559, sent to the qadi of Akyazı. The decree was issued in response to a collective complaint by the *re'âyâ* regarding the forced transportation of timber.²¹⁰ What is striking is that the document explicitly indicates that the subjects send a person to deliver their complaints to the imperial center (*"Taht-ı kazânda olan re'âyâ tâ'ifesi Dergâh-ı mu'allâ'ma âdem gönderüb şöyle 'arz eyledilerki ..."*). In response, the imperial order instructed the qadi to investigate whether the timber requisition was for state purposes (*mîrî*) and, crucially, to determine how such obligations had been handled in "ancient times." In addition, the qadi was tasked with assessing whether recent practices deviated from established norms and to report his findings accordingly. This example reveals that petitioning was far from a symbolic gesture; it served as a substantive channel through which ordinary subjects could assert their sense of legitimate governance, challenge perceived injustices, and influence the administrative response from the highest levels of imperial authority.

This and similar archival examples illustrate that petitioning was not merely a bureaucratic formality, but a meaningful channel through which imperial subjects could shape outcomes. As Linda T. Darling argues, such petitions "could become a tool against the powerful," transforming ordinary people from passive recipients of imperial authority into active participants in the political system.²¹¹ By submitting petitions, subjects not only asserted their right to be heard but also challenged the

²¹⁰ BOA, A.DVNS.MHM.d.3-185, H-29-10-966. *"Taht-ı kazânda olan re'âyâ tâ'ifesi Dergâh-ı mu'allâ'ma âdem gönderüb şöyle arz eyledilerki öküzleri ve arabaları yoğ iken İznikmid iskelesi'ne cebr ile bunlara odun çekdürüb zulmü hayf iderler imiş. Buyurdum ki: Vardukda göresin; kazıyye arz olunduğu gibi olub bunlara odun salınmış mıdır ve ne mikdâr odundur, mîrî için midür, gayrımıdır? Ve mîrî için olduğu takdîrce kadîmü'l-eyyâmdan ne vechile oligelmişdür? Hakkı olmayanlara dahı salınıgelmiş midür? Yohsa hemân çifti ve arabası olanlara mı salınıgelmişdür? Kadîmden oligelene mugâyir bunlara te'addî var mıdır, nicedür? Mufasssal yazub bildüresin."*

²¹¹ Linda T. Darling, *Revenue-Raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire, 1560-1660* (Leiden, The Netherlands: Brill, 1996), 298.

legitimacy of oppressive officials, thereby reinforcing their position within the broader moral and administrative framework of justice.²¹² Moreover, Darling further emphasizes that these petitions served a dual function: on one hand, they operated as a form of political expression for the petitioners; on the other, they acted as mechanisms of accountability, exposing abuses of power and delegitimizing those who transgressed the ethical boundaries of governance.²¹³

This interactive model of justice extended well beyond the formal institutions of the court. Subjects also addressed the sultan directly in more public and ceremonial settings—demonstrating that the pursuit of justice in the Ottoman world was not confined to bureaucratic venues but infused everyday political culture. During public appearances, such as Friday prayers (*Cuma selamlığı*), hunting expeditions (*av merâsimi*), and ceremonial processions, which often attracted both crowds and the attention of foreign ambassadors, individuals took advantage of the ruler’s visibility to submit written or oral petitions.²¹⁴ When the sultan could not personally receive such appeals, this responsibility was typically delegated to trusted officials—such as the confidential secretary (*sır kâtibi*), the chief steward (*kapı kethüdâsı*), or the grand vizier—who collected and conveyed the grievances for later review. For those unable to reach the sultan directly due to the crowd, a unique practice, known as “*ateş istidâsı*” or “*baş ahasır yakma*,” allowed individuals to draw attention to their grievances.²¹⁵ They would raise a burning mat or a bowl containing a smoldering cloth to symbolize the severity of their plight, signaling their distress and desperation. İnalçık notes that

²¹² Darling, *Revenue-Raising* ..., 298.

²¹³ Darling, *Revenue-Raising* ..., 298.

²¹⁴ Mehmet İpşirli, “Cuma Selâmlığı,” *TDV Encyclopedia of Islam*, accessed May 8, 2025 <https://islamansiklopedisi.org.tr/cuma-selamligi>; İnalçık, “Şikâyet Hakkı ...,” 63.

²¹⁵ Ekrem Buğra Ekinci, *Ateş İstidâsı: İslam-Osmanlı Hukukunda Mahkeme Kararlarının Kontrolü* (İstanbul: Filiz Kitabevi, 2001), 116; Reşat Ekrem Koçu, *Tarihimizde Garip Vakalar*, (İstanbul: Varlık Yayınevi, 1971), 15–16.

even English merchants in the seventeenth century adopted a similar custom of lighting fires near the palace to draw the ruler's attention.²¹⁶ Others resorted to public cries—such as “Is this unjust?” or “Is there no justice?”—to appeal to the sovereign's conscience and to provoke attention of the sovereign to his grievance. Such practices reveal that the Ottoman justice system was not merely an elite-driven discourse but rather a dynamic process in which the subjects played an integral role. While petitions and complaints were part of the formal legal mechanisms, the accessibility of the sultan and the performative nature of public grievances underscored the interactive nature of justice in the empire. This interplay between these formal structures and direct appeals demonstrates that Ottoman subjects were far from mute spectators; rather, they had meaningful, albeit mediated, roles in shaping governance. While they may not have directly shaped the theoretical discourse on *nizâm-ı âlem*, their actions—ranging from formal petitions to public demonstrations—demonstrate a meaningful level of agency.

As this section has demonstrated, the concept of *nizâm-ı âlem* in early modern Ottoman political thought was far more than a metaphysical ideal; it was a normative framework that structured the ethical, administrative, and legal architecture of empire. Rooted in Islamic cosmology yet articulated through Ottoman political practice, *nizâm-ı âlem* functioned both as a legitimizing principle and a performative goal—one that required constant maintenance through the ruler's moral conduct, institutional design, and responsiveness to the governed. The sultan's authority was not simply bestowed by divine sanction; it was continuously enacted through his obligation to uphold justice, ensure the prosperity of the *re'âyâ*, preserve social hierarchy, and maintain proximity to his subjects. In this vision, justice served as the operational core of imperial order—bridging the moral with the political, the metaphysical with the

²¹⁶ İnalcık, “Şikâyet Hakkı ...,” 63.

material. But crucially, justice was not imposed unilaterally from above. Ottoman subjects, through petitions, complaints, and public appeals, actively engaged with the imperial system and helped define the boundaries of legitimate authority. In this dynamic interplay between ruler and ruled, *nizâm-ı âlem* emerged not as a static state of equilibrium, but as a constantly negotiated order—one that depended as much on sovereign virtue as on the moral agency of the governed. The next chapter turns to the normative and legal foundations that supported this imperial order—focusing on how *sharia*, customary law (*örf*), and the notion of ancient tradition (*âdet-i kadîme*) coexisted, conflicted, and intertwined within the Ottoman legal system to produce a flexible yet authoritative framework of rule.

CHAPTER III

CUSTOM AS LEGAL ORDER: SHARIA, 'ÖRF, AND THE NORMATIVE FOUNDATIONS OF 'ÂDET-İ KADÎME IN OTTOMAN GOVERNANCE

Building upon the previous chapter's conceptual discussion of *nizâm-ı âlem* as a foundational ideal in Ottoman political thought, this chapter turns to the legal architecture that enabled its maintenance. It demonstrates how the Ottoman legal system operationalized a multi-layered conception of justice—grounded in Islamic principles yet responsive to the practical demands of governance—by integrating *sharia*, 'örf, and imperial authority into a coherent normative order. It argues that the Ottoman conception of *nizâm-ı âlem* and justice was not based on a rigid opposition between divine law and sultanic authority, but rather on a dynamic synthesis of *sharia* and sultanic legislation ('örfî *hukûk*). While *sharia* was universally upheld as the supreme normative source, the realities of ruling a vast and diverse empire required the development of complementary legal frameworks. Accordingly, the Ottomans incorporated customary law ('örf) and sultanic regulations into their administrative and judicial system—not as deviations from *sharia*, but as complementary instruments working in tandem with it to realize *nizâm-ı âlem*.

The chapter unfolds in four parts, each contributing to an understanding of how the Ottoman legal system helped secure *nizâm-ı âlem* by constructing a coherent normative order from diverse sources of authority. The study commences with an examination of the manner in which early modern Ottoman scholars and statesmen

addressed the practical limitations of sharia. It highlights the role of *siyâset-i sultânî* in securing public welfare, ensuring legal and administrative adaptability, and maintaining socio-political order. This concern for effective governance then leads to an analysis of the sultan's legislative authority—specifically how Islamic rulings were codified, juristic opinions selectively endorsed, and new customary laws enacted to fill normative gaps. Yet this growing body of *‘örfî hukûk* posed potential tensions with *sharia*, necessitating institutional and discursive strategies to maintain their harmony—most notably through the authority of the *şeyhülislâm* and the logic of formal non-contradiction. Finally, the chapter explores how the Qur’anic principle of *emr bi’l-ma’rûf ve nehy ‘ani’l-münker* provided an overarching theological framework that enabled the translation of communal norms into imperial law, thereby completing the synthesis of divine legitimacy and pragmatic governance. Taken together, these dimensions reveal that the Ottoman legal system was grounded not in a binary opposition between sacred and secular authority, but in a flexible synthesis that allowed divine legitimacy and pragmatic governance to coexist in the pursuit of *nizâm-ı ‘âlem*.

3.1 The Ottoman Synthesis: Sharia, Juristic Interpretation, and Customary Law in Maintaining *Nizâm-ı ‘Âlem*

The ideal of *nizâm-ı ‘âlem*—a just and harmonious world order—was inseparable from the existence of a coherent legal system. In the Islamic tradition, this system was founded upon *sharia*, yet the practical limitations of *sharia* in regulating

certain domains of governance prompted the development of customary law (*‘örfî hukuk*) as a necessary complement. This section focuses on the internal structure of Islamic law, examining how *‘örf* came to occupy a legitimate space alongside *sharia* and how, within the Ottoman context, it was justified as an indispensable tool for upholding both political stability and the proper application of divine law in service of *nizâm-ı âlem*.

Islam is a religion that aims to regulate the relationship between individuals with God and with each other. God established these relations through the Islamic law (*sharia*). The term *sharia* (literally means “path leading to the watering place”) represents the expression of God’s wills and commands, which were conveyed to all believers through Qur’an and the traditions of the Prophet Muhammad (*hadith* and *sunnah*).²¹⁷ In this sense, the sole legislator in Islam is the God and His Messenger, the Prophet Muhammad, who conveyed His wishes.²¹⁸ Therefore, *sharia* can be defined as a behavioral path incumbent on all Muslims, guiding them in the matters of religious convictions and legal affairs in this world and while striving for the divine favor in the hereafter.²¹⁹ The rules of *sharia* bind all Muslims without the need for approval by any individual or institution because they are based on divine will. That is to say, all believers, including the sultan and caliph, are obligated to adhere to these rulings.²²⁰

Although the Qur’an and *sunnah* contain some definitive legal provisions known as “*nusûs*” (sing. *nass*), comprising the core of *sharia*, these rules are relatively

²¹⁷ Ahmed El-Shamsy and Noel James Coulson, “Sharia,” *Encyclopedia Britannica*, accessed August 26, 2024, <https://www.britannica.com/topic/sharia>.

²¹⁸ It is argued that the Prophet, by conveying the divine will and issuing judgments regarding the actions of the responsible individuals based on his own reasoning (*ictihad*), is in a sense considered a legislator (*shâri*).

²¹⁹ Shamsy and Coulson, “Sharia.”

²²⁰ Ahmet Akgündüz, “Osmanlı Kanunnâmelerinin Şer’î Sınırları,” in *Osmanlı*, vol. 6, ed. Güler Eren (Ankara: Yeni Türkiye Yayınları, 2014), 401.

few in number.²²¹ Moreover, in some areas, God has provided only general principles, leaving the specifics to be determined by public authority in accordance with the evolving needs and conditions of society. Thus, *sharia* falls short in offering detailed regulations for critical domains such as public administration, taxation, criminal justice, and interstate relations with non-Muslim polities. Some scholars argue that, particularly in the domain of *nass*, a deliberate legal lacuna reflects the adaptive nature of *sharia*, allowing it to accommodate the evolving needs of different societies.²²² Moreover, there are certain matters for which no specific rulings exist at all. Consequently, the *sharia* was not a comprehensive legal code encompassing all aspects of life. Furthermore, although *sharia* encompasses foundational moral and legal principles, its practical application—particularly through jurisprudential interpretation and fatwas—relies on a casuistic mode of reasoning. This approach addresses specific circumstances rather than articulating abstract, universally codified legal norms in the modern statutory sense.²²³ This characteristic has led some scholars to liken *sharia* to a system of ‘case law’ in nature rather than ‘statutory law.’²²⁴ During the Prophet’s lifetime, Muslims sought legal clarity directly from him, as he held the ultimate authority to interpret divine commands and resolve disputes. His decisions and actions—known as *sunnah*—along with his sayings—later recorded as *hadith*—provided additional legal and moral guidance for Muslims. However, following his death in 632, the practical application of *sharia* became increasingly complex,

²²¹ Mohammad H. Kamali, “Law and Society: The Interplay of Revelation and Reason in the Shariah,” in *The Oxford History of Islam*, ed. John L. Esposito (New York, NY: Oxford University Press, 1999), 108.

²²² Adnan Koşum, “Osmanlı Örfi Hukukunun İslam Hukukundaki Temelleri,” *Necmettin Erbakan Üniversitesi İlahiyat Fakültesi Dergisi* 17, no. 17 (2004): 157.

²²³ In the case-based system (also known as the fatwa system), the event or issue (*mesele*) related to the intended rule is first formulated, and then the answer is provided, thereby establishing the desired rule.

²²⁴ Murat Şen, “Osmanlı Hukukunun Yapısı,” in *Osmanlı*, vol. 6, ed. Güler Eren (Ankara: Yeni Türkiye Yayınları, 2014), 328.

necessitating legal interpretation of *sharia*, *sunnah* and *hadith* by Muslim jurists (*muftis*) to address emerging issues.

The systematic interpretation and application of Islamic legal principles by early jurists gave rise to Islamic jurisprudence (*fiqh*). The term *fiqh*, literally meaning deep understanding or grasping well, refers to the scholarly endeavor of deriving legal norms from Islam's sacred sources.²²⁵ Islamic jurisprudence is traditionally divided into two interrelated branches: “*usûl 'l-fikih*” (“the principle of law”), which defines the methodological framework for legal reasoning, and “*firû 'l-fikih*” (“the branches of law”), which applies these principles to specific practical issues and daily legal matters.²²⁶ Although *fiqh* is rooted in divine revelation (*vahiy*) and authentic prophetic traditions (*hadiths*), it remains a product of human interpretation and thus lacks the infallibility of *sharia*.²²⁷ Moreover, the earliest *fiqh* works were scholarly treatises compiled by jurists. Their authority derived from the recognition of the jurists' expertise and the consensus (*icmâ'*) formed among scholars of a given era.²²⁸ Over time, these works acquired religious and legal significance, shaping the foundation of Islamic jurisprudence. It was only through the acceptance of state authority and institutional endorsement that these juristic writings transitioned into enforceable law within governing structures.²²⁹ Therefore, while *sharia* is considered infallible and

²²⁵ Hayreddin Karaman, “Fikih,” *TDV İslâm Ansiklopedisi*, accessed September 27, 2024, <https://islamansiklopedisi.org.tr/fikih#1>. See I. Goldziher and J. Schacht, “Fikih,” in *The Encyclopedia of Islam*, ed. B. Lewis, Ch. Pellat and J. Schacht, vol. 2 (Leiden: E.J. Brill, 1991), 886.

²²⁶ Engin Deniz Akarlı, “The Ruler and Law Making in the Ottoman Empire,” In *Law and Empire*, vol. 3, ed. Jeroen Duindam, Jill Diana Harries, Caroline Humfress, and Hurvitz Nimrod (Leiden, The Netherlands: Brill, 2013), 90.

²²⁷ In the *usû 'l-fikih*, the sources of legal rulings became a point of debate among early Islamic jurists, leading to the development of a hierarchy for deriving rulings. The Qur'an and *hadith* were universally recognized as the primary sources. However, when these were insufficient to address specific issues, jurists turned to secondary sources such as analogical reasoning (*kıyâs*), consensus (*icmâ'*) and in some cases, independent reasoning (*ictihâd*). It is important to note that not all schools of Islamic thought adopted the same hierarchy or recognized the same sources as authoritative within their jurisprudential theories.

²²⁸ Barkan, *XV ve XVI inci ...*, xi.

²²⁹ Barkan, *XV ve XVI inci ...*, xi.

immutable, *fiqh* is fallible and subject to change since it relies on speculative reasoning.²³⁰ Therefore, *fiqh* does not carry the same level of authority as *sharia*.²³¹ Nonetheless, the rules derived from the sacred sources of Islam through jurisprudence must remain in compliance with fundamental principles of *sharia*. As a result, *fiqh* seeks to fill the gaps in *sharia* regarding practical matters. Moreover, the ability of *fiqh* to bridge the gap between unchanging divine rulings and changing societal conditions—thereby addressing new issues—stems from its approach of offering broad, flexible rulings rather than rigid decisions for each situation. This approach did not only prioritize public interest (*maslahat*) but also leaves ample space for independent reasoning (*ictihād*).²³²

Even though the rules of *fiqh* do not distinguish between public and private law as in Western legal traditions, they are practically divided into the responsibilities of the individual toward God (*ibādāt*) and those related to interpersonal relations (*mu‘āmelāt*: literally means “reciprocal dealings” or “mutual dealings”). Additionally, crimes and punishments form a separate category called *ukūbāt* in Islamic law. The rules governing *ibādāt* are primarily devotional and ritualistic in nature and are considered self-evident, leaving little or no room for interpretation or change.²³³ Hence they are not susceptible to innovation.²³⁴ By contrast, *mu‘āmelāt* encompasses non-ritualistic legal rulings, such as family, commercial, civil, penal, and international law.²³⁵ Since *mu‘āmelāt* regulates *juridico*-human relations, communal relations, and

²³⁰ “Fiqh,” in *The Oxford Dictionary of Islam*, ed. John L. Esposito (New York, NY: Oxford University Press, 2003), 87.

²³¹ Kamali, “Law and Society: The Interplay of Revelation and Reason in the Shariah,” 108.

²³² Karaman, “Fikih.”

²³³ Vincent J. Cornell, “Fruit of the Tree of Knowledge: The Relationship Between Faith and Practice in Islam,” in *The Oxford History of Islam*, ed. John L. Esposito (New York, NY: Oxford University Press, 1999), 101.

²³⁴ “Muamalat,” in *The Oxford Dictionary of Islam*, ed. John L. Esposito (New York, NY: Oxford University Press, 2003), 209.

²³⁵ *Oxford Encyclopedia of the Islamic World: Digital Collection*, “Mu‘āmalāt,” ed. John L. Esposito, accessed September 27, 2024,

ensures that the individuals' behavior aligns with *juridico*-moral principles, it significantly impacts social life.²³⁶ Consequently, there is far greater flexibility within *mu'âmelât* to adapt and evolve the law to accommodate human interactions and promote justice.²³⁷

As a Turco-Islamic state, the Ottoman empire, recognized the supremacy of *sharia*, affirming God and the Prophet Muhammad, whose divine orders guided legal and moral conduct, as the ultimate lawgivers.²³⁸ Legal norms directly derived from the Qur'an, *sunnah*, *kıyâs* (analogical reasoning), and *icmâ'* (consensus) were codified in jurisprudential texts (*kutûbü'l-fıkıh*), requiring no further validation for their enforcement. However, as previously noted, *sharia* did not provide exhaustive regulations for all aspects of governance, particularly in the domains of public administration, taxation, and the legal status of conquered territories.²³⁹ This limitation, particularly in the field of *mu'âmelât* necessitated additional legislative activity to regulate the relationships among the diverse subjects of the Ottoman Empire, in accordance with the demands of time (*zarûret*) and public welfare (*maslahat*). Within this framework, the Ottoman sultans, in their capacity as a legislator, exercised legislative authority to maintain social harmony, ensure justice and preserve *nizâm-ı âlem*. The legal provisions enacted by the ruler fell under the category of *örfî hukûk* (customary law), encompassing rulings issued by the Ottoman sultans in the absence of explicit *sharia* injunctions.

<https://www.oxfordreference.com/display/10.1093/acref/9780197669419.001.0001/acref-9780197669419-e-274>.

²³⁶ M. Bernand, "Mu'amalat," in *The Encyclopedia of Islam*, ed. B. Lewis, Ch. Pellat and J. Schacht, vol. 7 (Leiden: E.J. Brill, 1991), 255–56.

²³⁷ "Muamalat," in *The Oxford Dictionary of Islam*, 209.

²³⁸ Halil İnalcık "Şeriat ve Kanun, Din ve Devlet," in *Osmanlı'da Devlet, Hukuk ve Adâlet*, ed. Cüneyt Dalgakıran (İstanbul: Kronik, 2016), 49.

²³⁹ Yunus Koç, "Early Ottoman Customary Law: The Genesis and Development of Ottoman Codification," in *Shattering Tradition: Custom Law and the Individual in Muslim Mediterranean*, ed. Walter Dostal and Wolfgang Kraus (New York, NY: I.B. Tauris, 2005), 77.

Muslim intellectuals contended that an absolute ruler with legislative authority was indispensable for preserving *nizâm-ı âlem*, ensuring the survival of the Muslim community, and enforcing *sharia*. Al-Mâwardî discusses the necessity of a non-religious authority (*kuvvetü's-saltana* or *emâra*) as a mechanism to ensure the implementation of *sharia* and to safeguard the well-being and continuity of the Muslim community.²⁴⁰ Ziauddin Barani (d. 1357), a prominent figure in the advice-to-kings (*nasihatnâme*) and mirrors-for-princes (*siyâsetnâme*) literature, emphasized the necessity of the ruler's independent legislative authority within an Islamic state.²⁴¹ He regarded this power as a prerequisite for maintaining an orderly religious and social life, grounding his argument in an absolutist theory of the state.²⁴² In the Ottoman context, Tursun Beg emphasized that to preserve social order, ensure the proper functioning of state affairs, and maintain *nizâm-ı âlem*, the ruler must take necessary measures (*siyâset*).²⁴³ When such governance was grounded in wisdom (*hikmet*) and necessity (*vücûb*), it was referred to as "*siyâset-i ilâhî*"—a form of divine governance that philosophers called "*nâmûs*" and that, in religious terminology, was synonymous with *sharia*.²⁴⁴ Its originator, in this context, was the Prophet, as the ultimate lawgiver (*şâri*).²⁴⁵ However, when governance did not reach the level of *siyâset-i ilâhî* but instead relied solely on rational considerations (*mücerred tavr-ı akl üzre*) to maintain "*nizâm-ı âlem-i zâhîr*," it was classified as "*siyâset-i sultânî*" or "*yasağ-ı pâdişâhî*."²⁴⁶ This suggests that while divine governance was the ideal model, political and practical governance required pragmatic and rational decision-making that was not explicitly

²⁴⁰ İnalcık, "Şeriat ve Kanun ...," 53.

²⁴¹ İnalcık, "Şeriat ve Kanun ...," 53.

²⁴² İnalcık, "Şeriat ve Kanun ...," 53.

²⁴³ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12.

²⁴⁴ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12.

²⁴⁵ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12.

²⁴⁶ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12. "*Ve illâ, ya'nî bu tedbîr ol mertebede olmazsa belki mücerred tavr-ı akl üzre nizâm-ı âlem-i zâhîr için, meselâ tavr-ı Cengiz Han gibi olursa, sebebine izâfet iderler, siyâset-i sultânî ve yasağ-ı pâdişâhî dirler ki, örfümüzce ana örf dirler.*"

rooted in *sharia* but was essential for statecraft and effective governance. In this theoretical framework, *siyâset-i ilâhî* was linked with the moral and religious legitimacy of rulership, whereas *siyâset-i sultânî* represented the sovereign authority to enact laws based on worldly necessities, ensuring the stability and functionality of the empire.

This tension between idealized divine law and pragmatic governance raised the broader question of how custom (*‘örf*)—often emerging from worldly concerns—could be legitimated within Islamic legal thought. Although Tursun Beg’s emphasis on rational discretion in governance may appear to reflect a political response to imperial necessity, this reliance on reason was not alien to the broader Islamic legal tradition. On the contrary, classical jurists had already articulated conceptions of *‘örf* that were grounded in rational judgment, moral sensibility, and communal acceptance. Understanding this intellectual background helps explain how Ottoman thinkers like Tursun Beg could envision *‘örf* not merely as a political instrument, but as a legitimate continuation of Islamic legal reasoning adapted to temporal realities.

Al-Ghazâlî, for instance, defined *‘örf* as something firmly established in the mind through reason and accepted by sound intellects, suggesting that its legitimacy derives from rational affirmation.²⁴⁷ A similar perspective appears in al-Nasafî’s (d. 1310) *el-Müstasfâ Şerhü’n-Nâfi*, where he defines *‘örf* as “what is settled in the conscience from the perspective of reason and accepted by sound temperaments” (*mâ istekarra fi’n-nüfûsi min ciheti’l-ukûli ve telekkathü’t-tîba ‘ü’s-selîmetü bi’l-kabûli*).²⁴⁸ The use of the phrase “what is settled in the conscience” highlights norms and practices

²⁴⁷ Walter Dostal, “Introduction,” in *Shattering Tradition ...*, 6.

²⁴⁸ Muharrem Midilli, “Osmanlı’da Hukukun Kaynaklarından Örf ile Örf-i Sultânî’nin Ebu’l-Berekât en-Nesefî ve Tursun Bey’in Tarifleri Çerçevesinde Mukayesesi,” in *I. Türk Hukuk Tarihi Kongresi Bildirileri*, ed. Fethi Gedikli (İstanbul: On İki Levha Yayıncılık, 2014), 663.

that are internalized and integrated into daily life.²⁴⁹ This line of reasoning continues with Sayyid Sharîf al-Jurjânî (d. 1413), who offers a nearly identical definition in his *et-Ta'rifât*, further reinforcing the idea that communal conscience and reason together constitute the basis of legitimate custom.²⁵⁰ A much later contribution comes from Ibn 'Âbidîn (d. 1836), whose formulation expands on these earlier views by emphasizing that *'örf* is not only logically appealing but also deeply rooted in people's hearts and embraced by virtuous dispositions—thereby integrating emotional, ethical, and social dimensions into the legal value of custom.²⁵¹

These definitions reveal that classical Islamic jurisprudence did not perceive custom as antithetical to divine law. Rather, they portray *'örf* as a dynamic instrument through which practical reason, ethical sensibility, and lived social realities were integrated into the legal imagination. In this light, Tursun Beg's notion of *siyâset-i sultânî*—rule grounded solely in rational considerations—should not be seen as a secular rupture from tradition. Instead, it reflects a political and administrative continuation of classical legal reasoning, articulated within the framework of Ottoman governance.

Furthermore, Tursun Beg views customary law as a mechanism that ensures the enforcement of *sharia*. In his understanding, customary law not only maintains *nizâm-ı âlem* and public order but also creates the necessary conditions for the implementation of divine commands. The disruption of *nizâm-ı âlem* would

²⁴⁹ Midilli, "Osmanlı'da Hukukun ...," 663.

²⁵⁰ Midilli, "Osmanlı'da Hukukun ...," 663. Al-Jurjânî's formulation defines *'örf* as "What is settled in the conscience through the testimony of reason and accepted by natural dispositions" [*Mâ istekarrat en-nüfûsu 'aleyhi bi şehâdeti'l-ukûli ve telekkathü't-tebai'u bi'l-kabûli*]. While mirroring al-Nasafî's formulation, he omits the qualifier "sound" (*selîm*) in reference to dispositions.

²⁵¹ Luqman Zakariyah, *Legal Maxims in Islamic Criminal Law: Theory and Applications* (Leiden, The Netherlands: Brill, 2015), 174; Hafiz Abdul Ghani, "'Urf -o- Âdah (Custom and Usage) as a Source of Islamic Law," *American International Journal of Contemporary Research* 1, no. 2, (2011): 178; Madya Othman Ishak, "'Urf and Customs as Being Practised among the Malay Community," *Arabica* 33, no. 3 (1986): 355.

inevitably hinder the full implementation of *sharia*.²⁵² Similarly, Sinan Pasha emphasizes the necessity of maintaining *nizâm-ı âlem* by upholding both “*tedbîr-i mülk*” (governance) and “*emr-i şer*” (religious law).²⁵³ He highlights the dual foundation of just rule by advising a proper application of *’örf* alongside *sharia*. In this sense, *’örf/kânûn* was not merely a tool for maintaining political stability but also an essential mechanism for ensuring the continued enforcement of Islamic law. Thus, customary law indirectly contributed to the preservation of *sharia*, reinforcing its role within the broader legal and administrative framework of the state.

Moreover, Tursun Beg explicitly referenced Chinggis Khan’s rule (1206-1227) as an example of this latter form of governance, where order was established solely through pragmatic and rational measures rather than divine law. Thus, Tursun Beg establishes a parallel between the rational measures referred to as *’örf* in Ottoman terminology and Chinggis Khan (d. 1227)’s *yasa*, suggesting a continuity of governance traditions. By doing so, he highlights the enduring legacy of pragmatic statecraft, where rulers exercised discretionary authority to maintain *nizâm-ı âlem*, independent of strictly religious jurisprudence. Tursun Beg used the terms *siyâset* and *yasağ* interchangeably, associating them with *’örf* in Ottoman terminology.²⁵⁴ This usage suggests that he viewed both as forms of governance based on rational discretion, reinforcing the idea that *’örf* functioned as a pragmatic tool for maintaining *nizâm-ı âlem* within the Ottoman legal and political framework.²⁵⁵ Tursun Beg’s use of the term *yasağ-ı padişâhî* reflects this distinction, as *yasağ*—derived from the Turkic-Mongol tradition—specifically denotes laws enacted through the ruler’s

²⁵² Midilli, “Osmanlı’da Hukukun ...,” 665.

²⁵³ Sinan Paşa, *Maârif-Nâme* ..., 688. “*Pâdişâh olan dâimâ tedbîr-i mülkte tekâsül etmemek gerek, ve hiçbir vakit emr-i şer’de tesâhül etmemek gerek ...*”

²⁵⁴ Midilli, “Osmanlı’da Hukukun ...,” 661.

²⁵⁵ Midilli, “Osmanlı’da Hukukun ...,” 661.

authority based on reason and administrative necessity. This term underscores the continuity between Ottoman legal practices and earlier Central Asian governance traditions, in which the sovereign's decrees played a crucial role in maintaining order.

In conclusion, this section has demonstrated that within the Ottoman legal imagination, customary law was not merely a pragmatic supplement used where divine law remained silent or ambiguous. Rather, it was a structurally integral element of the imperial legal order—essential for realizing *nizâm-ı âlem*, the harmonious state of political and social order that underpinned the legitimacy of rule. Ottoman thinkers and jurists framed *örf* not as a discretionary instrument of expediency, but as a necessary means by which the sultan could maintain justice and societal stability—conditions seen as prerequisites for the meaningful application of *sharia*. Custom, therefore, was not in tension with divine law, but served as the infrastructural foundation upon which its effective implementation could be ensured. In the following section, the discussion will turn to how this synthesis between *sharia* and custom was translated into concrete mechanisms of legislation and governance within the Ottoman polity.

3.2 Legislative Authority of the Sultan: Codification, Juristic Selection, and Customary Law in the Ottoman Legal Order

In addition to implementing the divine rulings of *sharia*, the Ottoman sultans, in their capacity as an Islamic ruler (*ulü'l-emr*), exercised a multifaceted legislative authority that extended into areas where religious law was either silent, ambiguous, or

insufficient for the practical demands of governance. This legislative activity operated through three distinct channels: (1) the codification and formal implementation of established Islamic legal rulings; (2) the selection and endorsement of juristic opinions on the basis of public interest (*maslahât*); and (3) the enactment of new regulations through customary authority (‘*örf*’), particularly in matters of administration, taxation, criminal justice, and public welfare. Although these domains differed in terms of their sources and justifications, they all aimed to preserve social order and justice in line with the overarching ideal of *nizâm-ı ‘âlem*.

Accordingly, the following section begins by examining the first two domains—codification and juristic endorsement—as complementary mechanisms rooted in the Islamic legal tradition. These practices did not constitute independent lawmaking but rather served to implement and adapt divine law to administrative necessities and changing circumstances. The second part then turns to the domain of customary legislation, exploring how the Ottoman sultans, drawing upon pragmatic and discretionary authority, enacted new laws to regulate matters beyond the direct reach of *sharia*, thereby reinforcing imperial stability and securing the conditions necessary for justice and order.

3.2.1 Codification and Juristic Selection: Implementing Divine Law in Imperial Governance

The first domain of the sultan’s legislative authority involved the codification of Islamic legal rulings (*ahkâm-ı şer‘iyye*) drawn from juristic texts—not to create new

law, but to ensure their systematic application within the imperial legal order.²⁵⁶ This process, known as distinct process of codification (*tedvîn*) was distinct from independent lawmaking (*teşrî*) and involved the formal incorporation of Islamic jurisprudence into legal codes while maintaining its doctrinal integrity. The *tedvîn* of Islamic legal rulings could take two forms: first, the direct inclusion of existing rulings without alteration; and second, the implementation of minor modifications to facilitate administrative enforcement while preserving the core principles of the rulings. According to Ahmet Akgündüz, the *Alâü'd-Devle* and *Bozok kânûnnâmes*—legal codes issued during the Dulkadirid period (1337–1522)—exemplify the first approach, as they incorporated many provisions drawn directly from Islamic legal texts.²⁵⁷ The second approach, which involved minor modifications while preserving the essence of the rulings, is exemplified by the transformation of *harâc-ı mukâseme*, a tax in Islamic law, into the tithe (*öşür*) in the Ottoman Empire.²⁵⁸ Likewise, the reclassification of *harâcî arâzî* (taxable land under Islamic law) as *mîrî arâzî* (state-owned land) demonstrates how Ottoman legal practice adapted Islamic categories through terminological and procedural refinements under the framework of customary law (*örf*).

The second domain of legislative activity within the framework of customary law involved the selective endorsement and formalization of juristic opinions, either

²⁵⁶ Ahmet Akgündüz, “Osmanlı Hukuku’nda Şer’i Hukuk-Örfi Hukuk İkilemi ve Yasama Organının Yetkileri,” *İslâmî Araştırmalar Dergisi* 12, no. 2 (1999): 117; Şen, “Osmanlı Hukukunun Yapısı ...,” 328.

²⁵⁷ Ahmet Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409. Ömer L. Barkan notes that a *deft*er from the surveys conducted by Süleyman I contained a copy of the *Alaüddeve Bey Kânûnnâmesi*, transferred from the original without modifications. The preface states that this law was enacted by the former rulers of Dulkadir, practiced by both the *sipâhî* and the local population, and validated by the Ottoman sultan based on prevailing customs. See Barkan, *XV ve XVI inci ...*, 119–124. For the transcribed version of *Bozok Kânûnnâmesi*; see Barkan, *XV ve XVI inci ...*, 124–129.

²⁵⁸ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 403; Colin Imber, “How Islamic was Ottoman Law?,” in *İSAM Konuşmaları: Osmanlı Düşüncesi- Ahlâk- Hukuk- Felsefe- Kelâm*, ed. Seyfi Kenan (Ankara: İSAM, 2013), 84.

from different interpreters of Islamic law (sing. *müctehid*) from the same school of thought or from different schools of thought within Islamic jurisprudence (*madhhab*). Since juristic opinions did not possess the binding authority of the Qur'an or *Sunnah*, and there was no hierarchical mechanism to determine the superiority of one over another, the sultan's legislative endorsement served as the decisive factor in conferring legal force. While the Ottoman state predominantly adhered to the Hanafi school and appointed *qadis* trained in Hanafi jurisprudence, the sultans occasionally sanctioned rulings from other schools, including the Shafi'i, Maliki, and Hanbali.²⁵⁹ To mitigate the uncertainty that could disrupt legal stability, Islamic law granted *ulü'l-emr* the authority to select among competing juristic interpretations and render them legally binding, thereby ensuring consistency in legal practice. This flexibility was particularly exercised when considerations of public welfare or administrative necessity required alternative legal interpretations. Since the variations in Islamic jurisprudence were primarily concerned with practical matters, rather than the fundamental principles of Islamic law and were therefore considered permissible under the principle of "*maslahat-ı nâs'a evfak*"—that is, ensuring the greatest benefit for society.²⁶⁰ One illustrative example concerns gratuitous transactions undertaken by indebted individuals. Traditional Hanafi jurisprudence regarded such transactions—including donations and endowments—as valid, based on the presumption that debtors would eventually fulfill their financial obligations. However, as instances of debt evasion became more frequent over time, Süleyman I (r. 1520–1566) codified a legal ruling that required the contentment of creditors for such transactions.²⁶¹ This

²⁵⁹ Şen, "Osmanlı Hukukunun Yapısı ...," 331.

²⁶⁰ Ömer L. Barkan, "Türkiye'de Sultanların Teşrii Sıfat Ve Salahiyetleri Ve Kanunnameler," *Journal of Istanbul University Law Faculty* 12, no. 2–3 (September 2011): 716.

²⁶¹ Akgündüz, "Osmanlı Kanunnâmelerinin ...," 404.

development illustrates how shifting social realities could prompt revisions to existing legal norms within the framework of public interest.

In cases that necessitated the formulation of new juristic opinions, a sultan who possessed expertise in jurisprudence (*fakih*) could theoretically exercise independent legal reasoning (*ictihâd*). However, if the sultan lacked such expertise, he would instead endorse the legal interpretations provided by the chief mufti (*şeyhülislâm*) or other jurists.²⁶² That being said, sultans generally did not hold the authority to engage in jurisprudence themselves, as this prerogative belonged exclusively to *fukahâ*. A notable instance of this dynamic is Süleyman I's adoption of Şeyhülislâm Ebussuud Efendi's (d. 1574) fatwa on the permissibility of cash endowments, which was subsequently codified into law.²⁶³ According to Inalcık, the principle of public interest (*istislâh*), expanded by the Ottoman jurist Muhammad al-Fanârî (d. 1431), was pivotal in this debate. Inalcık argued that Ebussuud Efendi's permissive ruling was motivated by the widespread societal benefits of cash endowments, which supported thousands of impoverished individuals, scholars, students, and charitable institutions. Their

²⁶² Koç, "Early Ottoman Customary Law ...," 76–77.

²⁶³ Akgündüz, "Osmanlı Kanunnâmelerinin ...," 406. The practice of cash endowments (*para vakıfları*) was a significant legal and economic issue in the Ottoman Empire. While traditional Islamic jurisprudence generally held that endowed property should be immovable, the increasing prevalence of cash *waqfs* in the Ottoman period led to intense legal debates. The most well-known dispute occurred during the reign of Sultan Süleyman I, when Şeyhülislâm Ebussuud Efendi issued a fatwa legitimizing cash endowment under specific conditions. This ruling faced strong opposition from scholars such as Çivizâde Muhyiddin Mehmed Efendi (d. 1547) and later İmam Birgivi Mehmed Efendi (d. 1573), who argued that cash endowments contradicted classical Hanafi legal principles. However, Ebussuud Efendi defended the legitimacy of cash *waqfs* by grounding his argument in *istihsân* (juridical preference) and *te'âmül* (customary practice), aligning with the position of earlier Hanafi jurists like İmam Muhammed. His ruling gained official support, leading to an imperial decree in 1548 that lifted the ban on cash endowments and regulated their registration. Despite ongoing opposition, cash *waqfs* became widespread, playing a crucial role in the Ottoman financial system, particularly in funding public institutions and infrastructure. For further discussion on the cash endowments, see Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (Cambridge: Cambridge University Press, 2010); Jon E. Mandaville, "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire," *International Journal of Middle East Studies* 10, no. 3 (1979): 289–308; Murat Çizakça, "Cash Waqfs of Bursa, 1555–1823," *Journal of the Economic and Social History of the Orient* 38, no. 3 (1995): 313–54; Mehmet Bulut and Cem Korkut, "Ottoman Cash Waqfs," *Insight Turkey* 21, no. 3 (2019): 91–112.

abolition, he contends, would have inflicted considerable harm upon Muslim society—underscoring the necessity of such legal accommodations within the broader framework of *maslahat* (public welfare).²⁶⁴ Although the Ottoman sultans did not themselves engage in jurisprudential reasoning—a prerogative reserved for the *fukahâ*—their authority to appoint or dismiss jurists granted them significant indirect influence over legal outcomes.

Consequently, although these two domains of legislative activity did not constitute independent lawmaking in the strict sense, they served as essential mechanisms by which the sultan upheld justice and preserved social order—both central to the realization of *nizâm-ı ‘âlem*. By codifying established Islamic rulings and selectively endorsing juristic opinions, the sultan translated divine norms into administrable procedures suited to the evolving institutional landscape of the empire. This process did not seek to override sharia but to ensure its meaningful implementation in light of changing social and political realities. Grounded in public welfare, these legislative actions reflect the sultan’s dual role as guardian of justice and guarantor of imperial stability. Codification and juristic selection, therefore, were not merely preservative acts but instruments of legal adaptation—tools through which the Ottoman state actively shaped a normative order aligned with the ideal of *nizâm-ı ‘âlem*.

²⁶⁴ İnalcık “Şeriat ve Kanun ...,” 50–51.

3.2.2 Customary Law and the Sultan's Legislative Authority: Governing Beyond the Scriptural Domain

Beyond the interpretation and implementation of *sharia*-based rulings, the Ottoman sultan exercised legislative authority in domains not explicitly regulated by Islamic legal texts, but rather governed purely by customary law. This authority—described by Halil İnalcık as an expression of the empire's secular sovereignty—necessitated the development of an independent legislative capacity rooted in *örf* (customary law).²⁶⁵ Through this prerogative, the sultan could respond to the administrative, fiscal, judicial, and penal needs of a rapidly evolving imperial context. Unlike the codification of *sharia* norms or the endorsement of juristic opinions, legislation based on *örf* derived its legitimacy not from scriptural sources, but from the ruler's obligation to uphold public welfare (*maslahat-ı âimme*) and preserve world order (*nizâm-ı âlem*). This discretionary authority was conceptualized through legal terms, such as “*ra'yi veliyyü'l-emr*” (the discretion of the ruler), “*hakkü's-saltana*” (the right of sovereignty), and “*ulü'l-emr'e tefviz edilen umûr*” (matters delegated to those in authority). Ottoman legal discourse also employed a wide array of expressions like “*siyâset-i sultânî*” (imperial governance), “*siyâset-i şer'iyye*” (Islamic governance), “*yasa*” (law), “*yasag*” (edict), “*yasağ-ı pâdişâhî*” (sultan's decree), “*örf-i pâdişâhî*” (imperial custom), “*örf-i münîf-i sultânî*” (sublime imperial custom), and “*kânûn-ı münîf*” (sublime law) to refer to this distinct legislative prerogative. While these terms varied in emphasis, they all affirmed the sultan's right to legislate independently, so long as such regulations did not contradict the *sharia*. This section examines the sultan's customary legislative authority across three principal domains: (1) the

²⁶⁵ İnalcık, “Şeriat ve Kanun ...,” 53.

regulation of otherwise permissible actions (*mübâh*), (2) the classification and punishment of discretionary offenses (*ta'zîr*), and (3) the enactment of administrative, fiscal, and military regulations. Together, these three domains reflect how customary law functioned as a practical instrument for ensuring public welfare and maintaining *nizâm-ı âlem*.

3.2.2.1 Regulating the Permissible: Discretionary Authority and the Maintenance of Public Order

The first domain concerned the regulation or prohibition of otherwise permissible actions (*mübâh*) when deemed necessary to uphold public welfare or prevent significant harm. This principle was encapsulated in the Ottoman maxim: “*nizâm-ı âlem için umûr-ı câ'izeyi men'e veliyyü'l-emr'in selâhiyeti*”—“the ruler’s authority to prohibit legally permissible matters for the sake of world order.”²⁶⁶ The rationale behind this principle was that although certain actions were legally neutral in themselves, their unrestricted practice could jeopardize social stability, thereby requiring sultanic intervention. In the Ottoman legal system, this authority was primarily exercised through “*yasaknâme*” (legal prohibitions), which functioned as formal decrees delineating specific regulatory measures. These encompassed a wide range of administrative concerns, such as the management of state-owned mines and saltworks, the regulation of currency and customs duties, and the control of marketplaces. Additionally, they governed the supply of essential commodities and the collection of treasury revenues.²⁶⁷ Through such legislation, the sultan acted as the

²⁶⁶ Şen, “Osmanlı Hukukunun Yapısı ...,” 331.

²⁶⁷ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409.

guarantor of public order, applying his discretionary authority oriented toward the preservation of *nizâm-ı âlem*.

This understanding of discretionary governance, although rooted in Ottoman practice, echoed broader currents in classical Islamic political thought. According to al-Mâwardî, the rightly guided ruler is one who preserves his rule through religion and formulates his policies in accordance with the welfare (*salah*) of the Muslim community.²⁶⁸ While emphasizing the ruler's adherence to *sharia*, al-Mâwardî also acknowledged the importance of discretionary authority exercised for the public good. Therefore, this theoretical foundation closely aligned with Ottoman practice, where the sultan's power to legislate through *örf* was viewed not only as a tool of pragmatic governance, but also as a legitimate means to uphold justice, preserve social harmony and maintain the *nizâm-ı âlem*.

A significant legal opinion on this matter was issued by Şeyhülislâm Pir Mehmed (d. ca. 1480s?) in the *Kânûnnâme-i Cedîd-i Sultânî*, affirming the binding nature of sultanic decrees (*örf*) even when they did not originate from religious law. He stated:

Although this is not a purely religious matter, in such cases, the ruler must be consulted. Many officials function in this manner. Obedience to decrees issued for the governance of the state is obligatory.²⁶⁹

²⁶⁸ Maverdi, *Devlet Yönetiminde Ahlak ve Siyaset ...*, 78. “En râşid yönetici yönetimini din ile koruyan görüşlerini Müslümanların salahı ile tanzim edendir. Çünkü din, kalplerin içindekileri islâh eder, günah işlemekten korur, ibadet etmeye, insanların arasında uzlaşmaya, ülfete ve karşılıklı anlayış ve duygu paylaşımına sevkeder. Bunlar dünyanın ancak kendisiyle düzeltilebileceği ve halkın ancak kendisi ile istikamet bulacağı kaidelerdir. Siyasi otorite (saltanat) bu kaideleri muhafaza edip onların kontrolden çıkmasını önleyen bir dizgin ve onlara muvafık şekilde davranmaya sevkeden bir saiktir ancak.”

²⁶⁹ Barkan, “Türkiye’de Sultanların ...,” 714. “Zeyd-i sipâhinin sûret-i defterinde mesturü’l-ism olan ra’iyyeti Amr celâ-i vatan idüib vefât itdikte, Zeyd-i sipâhi Amr’ın oğlu Bekir’i ahz idüib yerine getirüb hakkın almağa kâdir olur mu? el-Cevâb: Gerçi şer’î maslahat yoktur lâkin koyun kimin ise kuzu dahi onundur deyü şayi ancak bu makulede ulü’l-emr’e müracaat olunur. Nice memur ise öyle olur. Nizâm-ı memleket için olan emr-i âlîye itâ’at vâcibdir.”

What is particularly significant in Pir Mehmed's formulation is that the obligation to obey customary law does not stem from scriptural authority, but from the imperative to preserve social and political order (*nizâm-ı memleket*). In doing so, Pir Mehmed reframes obedience to sultanic customary legal norms as a socio-political necessity, the authority of the *ulü'l-emr* renders it binding for the sake of the order.

This logic was not limited to legal opinion; it reflected a broader intellectual tradition. The idea that sultanic decrees held binding authority in the service of *nizâm-ı âlem* was echoed and expanded upon by Ottoman intellectuals like Tursun Beg and Sinan Pasha. Tursun Beg underscored the essential role of customary law in preserving the world order.²⁷⁰ For him, *örf* was not a matter of convenience, but a foundational mechanism for securing social stability and the safety of subjects.²⁷¹ In his view, the disruption of established customs would inevitably lead to societal disorder, thereby reinforcing the normative authority of customary law in upholding the *nizâm-ı âlem*. Furthermore, drawing a conceptual parallel between religious and customary laws, Tursun Beg asserted that obedience to *sharia* preserved both the external and internal dimensions of order (*nizâm-ı âlem-i zâhir u bâtın*), while adherence to customary law was indispensable for the external, visible dimension (*nizâm-ı âlem-i zâhir*).²⁷² Similarly, Sinan Pasha advanced this view by emphasizing that every polity possesses its own unique combination of *örf* and *kânûn* (customary law), which together form the backbone of the state's social and political order (*nizâm-ı memleket*).²⁷³ For him,

²⁷⁰ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12.

²⁷¹ Tursun Bey, *Tarih-i Ebü'l-Feth*, 12–13. “Zarûri nev‘-i tedbîrden gereklü oldu ki her birini müstahıkk olduğı menzilde koya; kendü hakkına kâni’ idüp dest-i tasarrufını hukûk-ı gayriden kûtâh kıla ... Ve bunun gibi tedbîre siyâset dîrler.” Here, it is evident that Tursun Beg uses the terms “*tedbîr*” and “*siyâset*” in the sense of customary measures undertaken to preserve the order.

²⁷² Tursun Bey, *Tarih-i Ebü'l-Feth*, 12–13; Midilli, “Osmanlı’da Hukukun ...,” 666.

²⁷³ Sinan Paşa, *Maârif-Nâme* ..., 684. “Her memlekette bir örf olur ki onun nizâmı onunla olur; o örfü gözetip ondan tecâvüz etmemek gerek, ve her vilâyette bir kânûn olur ki mesâlihi onunla düzülür, o kânûnu riâyet edip ondan taşra çıkmamak gerek ...”

political stability depended on the consistent application of customary norms, as their proper enforcement signaled the welfare and prosperity of the state (*âbâdânlık*), whereas deviation from them risked undermining its foundational order (*virânlık*).²⁷⁴

The conceptualization of customary law (*örf* and *kânûn*) as a cornerstone of imperial stability and political legitimacy thus transcended its role as a mere legal tool. For both thinkers, the preservation of order (*nizâm*), the pursuit of public benefit (*maslahat*), and the stability of dynastic rule were mutually reinforcing imperatives. By situating sultanic legislation within a moral and political economy of justice, thinkers like Tursun Beg and Sinan Pasha legitimized the sultan's capacity to intervene, legislate, and adjudicate beyond the boundaries of sharia. In doing so, they provided an intellectual foundation for the Ottoman state's distinctive synthesis of religious and customary authority—one that not only preserved the image of dynastic continuity but also offered a flexible mechanism for navigating the demands of a vast and diverse empire.

3.2.2.2 Discretion and Deterrence: Customary Penal Authority

(Ta'zîr) and the Pursuit of Justice

The second domain in which the sultan exercised his legislative authority concerned to the classification and punishment of "*ta'zîr*" offenses—crimes for which Islamic law did not prescribe a fixed penalty. While *sharia* primarily regulated fixed punishments (*hadd*), it left many areas of criminal behavior unaddressed, thereby delegating sentencing for *ta'zîr* offenses to the discretion of the ruler.²⁷⁵ To address

²⁷⁴ Sinan Paşa, *Maârif-Nâme* ..., 684. "... şöyle ki, o örfü ve kânûnu riâyet eylemek, o yerin âbâdânlığı alâmeti olur ve ondan artırıp tecâvüz etmek, o memleketin virânlığı emâreti olur."

²⁷⁵ Coşkun Üçok, "Osmanlı Kanunnamelerinde İslâm Ceza Hukukuna Aykırı Hükümler III," *Ankara Üniversitesi Hukuk Fakültesi Dergisi* 4, no. 1 (1947): 48.

such discretionary cases, rulers increasingly relied on the doctrine of “*siyâset*,” a legal-administrative framework that enabled them to maintain justice and public order beyond the fixed limits of *sharia*. In this context, the widely used concept of “*siyâset*” or “*siyâset-i şer’iyye*” in Islamic jurisprudence extended beyond standard “*ta’zîr*” to encompass various aspects of criminal law, including sentence modification and legal measures aimed at preserving *nizâm-ı âlem*.

One of the most notable expressions of this discretionary penal authority in the Ottoman context was the widespread use of monetary fines (*cerîme*, *nezîr*, *bedel-i ta’zîr*). Despite their contested status in classical Islamic jurisprudence—where some jurists denounced them as oppressive innovations (*bid’at-i zâlîme*)—Ottoman *kânûnnâmes* institutionalized their application. These fines were classified based on the offender’s economic standing (*a’lâ*, *evsat*, *ednâ*), in a manner reminiscent of the differentiation found in the poll tax under *sharia*.²⁷⁶ By tailoring penalties to the offender’s socioeconomic capacity, the state pursued both proportional deterrence and fiscal equity—thereby aligning punishment with broader concerns of public welfare (*maslahat-ı âmm*). Moreover, such fines were often imposed alongside corporal punishments (*ta’zîr*), resulting in a hybrid penal regime that combined physical and monetary deterrents.²⁷⁷ This dual structure reflected a layered logic: while monetary sanctions—being adjusted to individual means—served as a tolerable and equitable form of punishment, physical penalties preserved the exemplary and coercive dimensions of justice. In this way, the coexistence of financial and corporal measures allowed the state to pursue both individual benefit and collective stability, sustaining the *nizâm-ı âlem* through a balance of mercy and discipline.

²⁷⁶ Uriel Heyd, “Eski Osmanlı Ceza Hukukunda Kanun ve Şeriat,” trans. Selahaddin Eroğlu, *Ankara Üniversitesi İlahiyat Fakültesi Dergisi* 26, (1983): 645; Üçok, “Osmanlı Kanunnamelerinde ...,” 60.

²⁷⁷ Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 645.

To reinforce this discretionary authority, the sultan's power to define *ta'zîr* offenses was codified in foundational legal texts such as the *Umûmî 'Osmanlı Kânûnnâmeleri* (General Ottoman Law Codes), compiled during the reigns of Mehmed II (r. 1444–1446, 1451–1481) and Süleyman I. These codes, particularly in their opening sections, systematically detailed penal regulations, illustrating the institutionalization of a comprehensive system of justice.²⁷⁸ As Uriel Heyd notes, the penal code issued under Süleyman I—most likely in 1545—expanded the scope of criminal law by including offenses that were not explicitly addressed in earlier *kânûnnâmes*. These new provisions regulations encompassed a wide range of moral, fiscal, and religious violations such as sodomy (*livata*), perjury (*yalan yere şehâdet*), counterfeiting (*kalpazanlık*), charging excessive profit margins (above 10–15%), failing to attend Friday prayers (*Cuma namazını kılmamak*), neglecting the Ramadan fast (*Ramazân orucunu tutmamak*), and engaging in immoral behavior (*ahlâka mugâyir davranışlar*).²⁷⁹ This codification reveals that *ta'zîr*-based penal authority was not exercised arbitrarily but was instead embedded in a legal-administrative tradition aligned with the preservation of *nizâm-ı âlem*.

Yet, despite this legal framework, the practical implementation of *ta'zîr* punishments frequently reflected the Ottoman state's flexible approach to justice—one shaped less by rigid legalism than by the demands of public order, expediency, and socio-political necessity. Some scholars argue that while Islamic criminal law prescribed fixed punishments for certain offenses, the Ottoman sultans often modified these penalties through customary law in ways that diverged from classical Islamic jurisprudence. As Coşkun Üçok contends, Ottoman rulers introduced discretionary

²⁷⁸ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409.

²⁷⁹ Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 637. Feridun M. Emecen, *Kanuni Sultan Süleyman ve Zamanı* (Ankara: TTK, 2022), 652.

punishments and financial penalties emphasizing social utility and public interest over strict adherence to religious penalties.²⁸⁰ For instance, although classical Islamic law mandated amputation for theft beyond a certain threshold, Ottoman *kânûnnâmes* frequently substituted fines.²⁸¹ These could be calculated per lash (e.g., one or two *akçes* per stroke), fixed regardless of income, or scaled based on the offender's wealth.²⁸² In some cases, *kânûnnâmes* explicitly forbade amputation, reflecting a conscious departure from classical prescriptions in favor of preserving public stability.²⁸³ In the same vein, Uriel Heyd observed the increasing use of forced galley labor (*kürek cezâsı*) in the sixteenth century, whereby convicts were sentenced to row during wartime, despite the lack of any clear basis for this practice in *sharia*.²⁸⁴ An imperial decree of 1572, issued shortly after the Battle of Lepanto, ordered that criminals who might otherwise face execution or corporal punishment be sent to the galleys to meet urgent naval needs.²⁸⁵ This policy exemplifies the pragmatic, utilitarian use of penal authority by the Ottoman state in response to military exigencies. Together, these legal flexibilities demonstrate how customary law operated as a dynamic instrument of governance, enabling the Ottoman state to navigate between normative ideals and practical realities in its effort to sustain the *nizâm-ı âlem*. This legal pragmatism—rooted in codified norms and administrative precedent—reached its most potent expression in the sultan's authority to impose capital punishment (*siyâset*), despite lacking direct scriptural basis.

²⁸⁰ Üçok, "Osmanlı Kanunnamelerinde İslâm ...," 52.

²⁸¹ Üçok, "Osmanlı Kanunnamelerinde İslâm ...," 65.

²⁸² Üçok, "Osmanlı Kanunnamelerinde İslâm ...," 65. "Eğer sagir oğrılarsa elin kesmiyeler gani olup bin akçaya dahi ziyadeye gücü yeterse cerem yüz akça evsatü'l-hal olursa elli akça fakir olursa kırk ya otuz akça alına."

²⁸³ Üçok, "Osmanlı Kanunnamelerinde İslâm ...," 54, 65. "Eğer yançak ya destar oğrılarsa elin kesmeli olmiya kadı tazir ura ağaç başına bir akça cerem alına."

²⁸⁴ Heyd, "Eski Osmanlı Ceza Hukukunda ...," 650.

²⁸⁵ Heyd, "Eski Osmanlı Ceza Hukukunda ...," 651.

This extraordinary latitude was not merely a matter of legal discretion but constituted a vital mechanism for preserving *nizâm-ı âlem*. It enabled the sultan to go beyond the prescriptions of *sharia* when deemed necessary, including the imposition of capital punishment in cases that would otherwise warrant milder penalties. However, such expanded use of penal authority was not without theological justification. Jurists justified it through fatwas that classified habitual offenders (*âdet-i müstemirre*) as *sa'î bi'l-fesâd*—those who spread corruption on earth—as referenced in Qur'an 5:33.²⁸⁶ Within this framework, execution was framed not as a fixed punishment but as a discretionary act of governance (*siyâseten*), aimed at preserving public order, safeguarding the community (*siyâneten li'l-'ibâd*), and deterring future transgressions (*'ibreten li's-sâ'irîn*).²⁸⁷

3.2.2.3 Legislating for the Common Good: Customary Authority and the Infrastructure of Public Welfare

The third and the last domain in which the sultan exercised legislative authority pertained to matters of public welfare, particularly in the organization and maintenance of state administration. As Ottoman governance adapted to shifting social and economic conditions, the sultan's legislative authority within the framework of customary law became essential to sustaining the effectiveness and responsiveness of the imperial system. The guiding principle behind such legislation was the

²⁸⁶ Qur'an (5:33) "Indeed, the penalty for those who wage war against Allah and His Messenger and spread mischief in the land is death, crucifixion, cutting off their hands and feet on opposite sides, or exile from the land. This [penalty] is a disgrace for them in this world, and they will suffer a tremendous punishment in the Hereafter."

²⁸⁷ Heyd, "Eski Osmanlı Ceza Hukukunda ...," 647.

prioritization of the common good. As Adnan Koşum argues, *maslahat* functioned not only as the *raison d'être* of governance but also as its fundamental organizing principle, encompassing the continuity of vital state functions that served the common good.²⁸⁸ This principle was articulated most clearly in the *Mecelle*, which states: “The ruler’s disposition over the subjects is contingent upon the public good.”²⁸⁹ According to its official commentary, the term “*tasarruf*” includes all legal and administrative acts carried out by state officials in judicial, fiscal, and military domains. Within this framework, the legitimacy of the ruler’s authority rested on his ability to safeguard *maslahat-ı ‘âmme* through the regulation and restructuring of public institutions—an obligation understood as essential to maintaining *nizâm-ı ‘âlem*.

As Ahmet Akgündüz emphasizes judicial regulations—such as statutes of limitations on legal claims, the imprisonment of insolvent debtors, or the hierarchical classification of courts—were enacted to prevent legal uncertainty, reduce procedural delays, and increase access to justice.²⁹⁰ These measures served the public by promoting legal clarity, ensuring fairness in adjudication, and reinforcing confidence in the judiciary—core components of social welfare. Similarly, in the fiscal sphere, the sultan issued regulations on the collection of taxes not merely to generate revenue, but to sustain essential state functions tied to the public good.²⁹¹ This connection is made explicit in an Ottoman *kânûnnâme*, which justifies the imposition of levies—such as *rûsûm-ı re ‘âyâ* (taxes on subjects), *bâc* (market tolls), *harâc* (land tax levied from non-Muslims), and *‘aşâr* (tithe)—as necessary for “the defense of the frontiers (*sedd-i sığûr*), the provisioning of the victorious army (*techîz-i asker-i manşûr*), the support

²⁸⁸ Koşum, “Osmanlı Örfi Hukukunun ...,” 151.

²⁸⁹ Ahmet Şimşirgil and Ekrem Buğra Ekinci, *Ahmet Cevdet Paşa ve Mecelle* (İstanbul: KTB Yayınları, 2008), 81. *Mecelle* article 58: “*Ra’iyye yani teb’a üzerine tasarruf, maslahata menûttur.*”

²⁹⁰ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409.

²⁹¹ Şen, “Osmanlı Hukukunun Yapısı ...,” 331.

of distinguished scholars (*in 'âm-ı 'ulemâ-i a 'lâm*), and the nourishment of the poor among the people (*it 'âm-ı fukarâ-i enâm*).”²⁹² In addition, the taxes imposed were determined by the sultan in accordance with various contextual factors, including the social and economic status of the *re 'âyâ*, the classification of land, the timing and method of collection, and, crucially, the perceived benefit to the *re 'âyâ* themselves. This formulation reveals that taxation in the Ottoman Empire was framed not merely as a fiscal obligation, but as a legitimate and necessary instrument of the collective welfare of society.

Likewise, military regulation was considered an essential component of public welfare. The legal organization of military corps such as the *yaya*, *müsellem*, *voynuk*, *derbendçi*, and *kapıkulu* enabled the empire to maintain a structured and dependable defense apparatus.²⁹³ These forces fulfilled critical functions ranging from frontier security to the maintenance of internal order, thereby safeguarding life, property, and commercial activity throughout the empire. Their effective administration thus played a direct role in ensuring public safety and preserving socio-political stability. In parallel, the legal regulation of state-owned lands (*mîrî arâzî*) and the *timar* system formed the backbone of the Ottoman agrarian and fiscal order. By keeping land under continuous cultivation, directing its surplus to support military officials, and channeling revenue to the treasury, these frameworks ensured a stable food supply, limited land accumulation by private elites, and maintained long-term economic equilibrium. In newly conquered territories, the sultan's authority to classify, allocate, and redistribute land enabled the state to promote social integration and administrative

²⁹² Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409. “... *sedd-i süğûr ve techîz-i asker-i mansûr ve in am-ı ulemâ-i a 'lâm ve it 'âm-ı fukarâ-i enâm için vaz' ve tayin olunan rûsûm-ı ra'îyyet ve bac-ı tüccâr ve bâzâr ve harâc ve a'şâr gibi ...*”

²⁹³ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 409.

consolidation—objectives fundamentally tied to the concept of public welfare.²⁹⁴ This authority is explicitly affirmed in the preface of an Ottoman *kânûnnâme*, which describes the rules concerning land and the holders of *timar* as having been enacted to regulate the conditions of the *re‘âyâ*.²⁹⁵

The preceding discussion has shown that the Ottoman sultan exercised legislative authority through a dual framework: codifying Islamic rulings to ensure doctrinal coherence, and issuing customary regulations grounded in administrative necessity, public utility, and penal discretion. This model allowed the state to reconcile fidelity to divine law with the pragmatic needs of empire. However, such a synthesis was not without its tensions. The legitimacy of *‘örf* remained contingent on its perceived compatibility with sharia, raising critical questions about the mechanisms through which these two domains were reconciled. The following section investigates how Ottoman jurists and institutions navigated this legal duality—not by collapsing the distinction between sharia and custom, but by constructing discursive and procedural strategies that allowed them to coexist without contradiction.

3.3 Balancing the Sacred and the Pragmatic: Navigating the Relationship Between Sharia and Customary Law

While the previous sections examined the theoretical foundations and practical applications of the sultan’s legislative authority in both Islamic and customary

²⁹⁴ Şen, “Osmanlı Hukukunun Yapısı ...,” 331–32.

²⁹⁵ Akgündüz, “Osmanlı Kanunnâmelerinin ...,” 410. “...ve intizâm-ı ahvâl-i re‘âyâ ve berâyâ içün tarh ve tertib olunan kavâid-i arâzi ve erbâb-ı timar gibi ...”

domains, this section turns to the delicate and often negotiated relationship between *sharia* and *‘örf* in the Ottoman legal system. In this context, *‘örf* was not merely a supplementary mechanism to address issues unregulated by divine law; rather, it constituted a fully institutionalized domain of governance, integral to the preservation of *nizâm-ı ‘âlem*. Crucially, the legitimacy of this domain hinged on its formal non-contradiction with *sharia*, a principle that ensured both normative coherence and the continued moral authority of sultanic rule.

Therefore, far from being oppositional frameworks, these two bodies of law were conceptualized by Ottoman jurists, statesmen, and intellectuals as complementary mechanisms of governance. Yet, this complementarity did not always imply seamless harmony. As the Ottoman state expanded its administrative and fiscal reach, sultanic legislation occasionally ventured into territories traditionally regulated by *sharia*, prompting questions about the limits of customary authority and the mechanisms through which legal coherence was maintained. Through fatwas, legal preambles, and institutional oversight—particularly by the *‘ulemâ* and the office of the *şeyhülislâm*—the Ottoman Empire sought to construct and preserve a normative order in which sultanic decrees remained formally aligned with the principles of divine law. This section explores how such reconciliation was achieved in practice, and how the exercise of *‘örf*-based authority was embedded within a broader legal and moral framework aimed at maintaining *nizâm-ı ‘âlem*.

The Ottoman legal system was built upon a distinction between two domains of law: *sharia* and customary law (*‘örfî hukûk*). Matters related to private law—including marriage, inheritance, property rights, and contracts related to sales or

leases—fell under the jurisdiction of *sharia*.²⁹⁶ In contrast areas such as constitutional law, administrative and financial organization, taxation, and criminal procedure were primarily regulated through sultanic legislation or customary law. This division of legal domains reflects a duality within the Ottoman legal system, in which *sharia* and customary law functioned as parallel yet distinct sources of legitimacy. As illustrated in a fatwa by Şeyhülislâm Pîr Mehmed—previously cited in the context of sultan’s discretionary authority—there was an explicit recognition of the normative separation between religious and customary law.²⁹⁷ Yet, while this fatwa affirmed the binding nature of sultanic decrees in non-religious matters, it also implicitly acknowledged the limits of such authority: the sultan’s legislative power, though expansive, was expected to remain within the bounds of his role as guardian of Islamic law. The recognition of distinct domains thus did not imply unrestricted sovereignty, but rather a delicate balance of jurisdiction.

One of the earliest instances of a customary tax in the Ottoman Empire was the market tax (*bâc*), and its introduction illustrates how early Ottoman rulers made a conscious effort to maintain the boundary between *sharia* and ‘*örf*. Aşıkpaşazâde, a late fifteenth century Ottoman chronicler, recounts that Osman Beg (d. 1323/24), initially unfamiliar with such a tax, reacted with anger when someone requested the right to collect it in Karacahisar. According to Aşıkpaşazâde, the petitioner justified the tax by citing *töre* (customary practice), but Osman questioned whether this authority derived from divine law or was merely established by rulers through custom. When the petitioner reiterated that it was an ancient *töre*, Osman ultimately approved

²⁹⁶ Koç, “Early Ottoman . . .,” 77.

²⁹⁷ See subsection “3.2.2.2 Discretion and Deterrence: Customary Penal Authority (*Ta’zîr*) and the Pursuit of Justice” for a detailed discussion of this fatwa.

the tax, setting it at two *akçes* per load of goods.²⁹⁸ It can be understood that Osman Beg initially opposition to the tax appears to have stemmed not from its financial implications, but from uncertainty about whether such taxation fell within the domain of *sharia* or *‘örf*. While the historical accuracy of Aşıkpaşazâde’s narrative remains open to debate, the story nevertheless offers valuable insight into how Ottoman rulers actively sought to avoid conflicts between *‘örf* and *sharia* in the formulation of law. As a general principle, the Ottoman state adhered to the doctrine that in cases of legal conflict, *sharia* held ultimate precedence over *‘örf*—a perspective clearly reflected in this episode.²⁹⁹

Such sensitivity to the boundaries between *sharia* and *‘örf* was not limited to early anecdotal cases; it became embedded in the Ottoman legal-administrative structure. In Ottoman law, customary regulations were subject to review by judges and jurists (collectively known as the *ulema*) to ensure their conformity with Islamic legal principles.³⁰⁰ Many Ottoman law codes (*kânûnnâme*) began with formulaic expressions that emphasized their compatibility with *sharia*. One typical example states: “This is an imperial law code which has been determined to be in accordance with *sharia* and remains a valid legal text (*kânûnnâme-i sultânîdir ki, şer’-i şerîfe muvâfakati mukarrer olub hâlâ mu’teber olan kavânin ve mesâildir*).” Such preambles underscore the emphasis placed on ensuring that customary law did not contradict Islamic legal principles. Moreover, such preambles also indicate that the legitimacy of existing laws and regulations was grounded in Islamic law and that, upon compilation,

²⁹⁸ Aşıkpaşazade, *Aşıkpaşazade Tarihi*, ed. Necdet Öztürk (İstanbul: Bilge Kültür Sanat, 2013), 30; Koç, “Early Ottoman ...,” 81; Sariyannis, *A History of Ottoman Political ...*, 35–36.

²⁹⁹ Erol Özbilgen, *Osmanlı Hukukunun Yapısı* (İstanbul: Nihal Kitabevi, 1985) 63.

³⁰⁰ İnalcık “Şeriat ve Kanun ...,” 50.

kânûnnâmes were submitted for review by the *‘ulemâ*, who would verify that their provisions did not contradict *sharia* principles.³⁰¹

According to İnalcık, one of the reasons for the establishment of the office of *şeyhülislâm* was to prevent legal rules from conflicting with the *sharia*.³⁰² While this office formally functioned as a legal safeguard, some scholars argue that its role was largely ceremonial—serving to legitimize rather than restrain the sultan’s legislative authority. Ömer Lütfi Barkan, for instance, emphasizes that Ottoman sultans, who combined both temporal and spiritual authority, regarded themselves as earthly deputies of the Prophet. This conception of rulership granted them broad autonomy to issue laws without needing the formal approval of a legislative assembly or even the *şeyhülislâm*.³⁰³ In reality, however, the process of lawmaking was mediated through a bureaucratic apparatus: advisory councils and officials conducted investigations, prepared drafts, and refined proposals.³⁰⁴ Yet as Barkan emphasizes, these actors held primarily technical and consultative roles, rather than exercising independent legislative power.³⁰⁵ Ultimately, he argued that the sultan retained decisive authority over the content and promulgation of laws.³⁰⁶

Yet, this perceived autonomy was not absolute—as a striking contrast demonstrates. A notable case involves the Ayasofya waqf. When tenants resisted an increase in rent to match market value, arguing that the waqf’s income already exceeded its expenses, they appealed to the sultan. The sultan issued a decree granting their request. However, when asked to evaluate the situation, *Şeyhülislâm* Ebussuud

³⁰¹ İnalcık “Şeriat ve Kanun ...,” 50.

³⁰² İnalcık, “Şeriat ve Kanun ...,” 50.

³⁰³ Barkan, “Türkiye’de Sultanların ...,” 713.

³⁰⁴ Barkan, “Türkiye’de Sultanların ...,” 713.

³⁰⁵ Barkan, “Türkiye’de Sultanların ...,” 713.

³⁰⁶ Barkan, “Türkiye’de Sultanların ...,” 713.

Efendi firmly opposed the decree, declaring: “A sultanic command cannot render an unlawful matter lawful; what is forbidden cannot be made permissible by imperial will” (“*Olmaz! Emr-i sultânî ile, nâmeşrû olan nesne meşrû olmaz; haram olan nesne helâl olmak yokdur*”).³⁰⁷ This episode illustrates that, despite the wide scope of sultanic authority, the legitimacy of customary regulations ultimately rested on their alignment with Islamic law. While the sultan could enact laws to govern areas not explicitly regulated by *sharia*, these laws were not immune from judicial or theological scrutiny. The intervention of the *şeyhülislâm* in this case reveals the institutional and normative mechanisms through which the coherence of the dual legal system was preserved.

At the same time, however, Ottoman intellectuals did not conceive of the relationship between customary law and *sharia* as inherently antagonistic. Rather, they viewed them as complementary legal frameworks functioning within a unified imperial order. This perspective is evident in imperial decrees, which frequently included phrases such as “to be adjudicated according to both *sharia* and *kanun*” (“*şer‘ ve kânûn üzere görülmesi*”) and “no one shall be permitted to act contrary to *sharia* and ancient laws” (“*şer‘-i şerîfe muhâlif ve kânûn-ı kadîme muğâyir kimesneye iş etdirmeyesin*”). These expressions indicate that, within the Ottoman legal system, *sharia* and *örf* were not seen as contradictory but as mutually reinforcing bodies of law. A notable example of this integration appears in a fatwa issued by Kemalpaşazâde (d. 1536), an Ottoman *şeyhülislâm* and historian, concerning the legal status of captives. In his ruling, he states: “... it is not legally permissible (*şer‘an câ‘iz değildir*), and it has also been prohibited by the sultan (*hem de men‘ olunmuştur cânib-i sultândan*).” This dual formulation highlights how *sharia* and customary law operated

³⁰⁷ Ahmet Akgündüz, “Ebüssuûd Efendi,” *TDV İslâm Ansiklopedisi*, accessed May 13, 2025, <https://islamansiklopedisi.org.tr/ebussuud-efendi>; Heyd, “Eski Osmanlı ...”, 642.

in tandem, with religious and sultanic authority reinforcing one another in legal decisions.³⁰⁸ Rather than conflicting sources of law, they functioned as co-legitimizing frameworks within a unified normative order. Another significant illustration is found in the *Kânûnnâme of Tevkii Abdurrahman Pasha*, which explicitly affirms the collaborative functioning of *sharia* and customary law in Ottoman governance. The text states:

The Grand Viziers must always be engaged in the well-being of God's servants and are responsible for implementing the rulings of *sharia*. They convene the Imperial Council, adjudicating the affairs of the people according to *sharia* and *kanun*, resolving disputes, and delivering legal judgments to those who seek justice in accordance with both legal systems.³⁰⁹

This passage reinforces the institutional vision of legal duality not as a site of friction, but as a deliberate structure through which justice could be pursued in both worldly and spiritual terms. By emphasizing the dual responsibility of viziers and council members to uphold both legal traditions, the *kânûnnâme* exemplifies how legal pluralism was embedded into the daily workings of Ottoman imperial administration.

Nonetheless, the alignment between customary law and *sharia* was not always seamless. As Halil İnalcık points out, although the laws enacted by the sultan within the framework of customary law did not always appear fully consistent with *sharia*, they were nonetheless implemented when deemed essential for the continuity of civil authority and the welfare of the Muslim community.³¹⁰ In practice, certain legal

³⁰⁸ Halil İnalcık and Robert Anhegger, *Kânûnnâme-i Sultânî Ber Mûceb-i 'Örf-i 'Osmânî* (Ankara: TTK, 2000), X.

³⁰⁹ Şen, "Osmanlı Hukukunun Yapısı ...," 328. "...Sadrazam olanlar, daima masâlih-i ibadullah ile meşgûl olub ahkâm-ı şer'î-i şerîfi icrâ etmekle memurdurlar. ...Divan idüib mesâlih-i ibadullahı şer'î ve kânûn üzere görürler. Ve fasl-ı nizâ ve kat-ı husûmet buyururlar. Ve taleb eden müdde'ilere şer'î-i şerîf ve kânûn üzere ahkâm-ı şerîfe virirler"

³¹⁰ İnalcık, "Şeriat ve Kanun ...," 52.

provisions introduced through customary law deviated from *sharia*, particularly in areas where Islamic jurisprudence lacked explicit rulings or permitted discretionary governance. In such cases, the Ottomans either sought a fatwa to legitimize the regulation or framed the measure as a prerogative sanctioned by Islamic law—thus preserving a formal appearance of compliance with *sharia*. This dynamic—discussed earlier in the context of Ottoman criminal law—is especially evident in the use of *ta'zîr* punishments, which sometimes imposed severe penalties that did not strictly adhere to the principle of proportionality in Islamic legal doctrine.³¹¹

In sum, the Ottoman legal order was characterized not by a rigid separation but by a dynamic interplay between *sharia* and *‘örf*, negotiated through both institutional oversight and discursive strategies. Customary law did not merely fill in the gaps of *sharia*, but operated as a parallel framework through which the state articulated its authority, addressed the evolving needs of governance, and upheld public order. Yet, the durability of this dual system depended on the perception of its internal harmony—on the ability to present sultanic regulations not as contraventions of divine law, but as its necessary complements. It was precisely through this framing that Ottoman rulers and scholars maintained the moral legitimacy of *‘örf*-based authority. As the following section will explore, this balance was also deeply embedded in broader Islamic ethical principles—particularly the doctrine of “*emr bi’l ma’rûf ve nehy ‘ani’l-münker*,” which provided a normative framework for defining communal obligation, reinforcing social norms, and legitimizing intervention in the name of order.

³¹¹ Şen, “Osmanlı Hukukunun Yapısı ...,” 334.

3.4 The Principle of “*Emr bi’l-Ma’rûf ve Nehy ‘Ani’l-Münker*”: Moral Command and Legal Authority in the Formation of Customary Law

This section investigates the Qur’anic principle of *emr bi’l-ma’rûf ve nehy ‘ani’l-münker* not merely as an ethical command, but as a foundational source of legal and political authority in Islamic—and specifically Ottoman—governance. While commonly rendered in English as “commanding right and forbidding wrong,” this translation conceals the semantic complexity of the original terms and the broader jurisprudential implications of the principle. A central aim of this section is to unpack the historical and conceptual layers behind the terms *ma’rûf* and *münker*, demonstrating how their meanings evolved across Islamic intellectual history. In particular, I argue that *ma’rûf* once carried strong associations with custom and tradition (*‘örf*), and that its later narrowing to “righteousness” in moral or religious terms reflects a significant semantic and legal shift. By recovering this older connotation, I show how *emr bi’l-ma’rûf* functioned as a key justification for the Ottoman sultan’s authority to legislate in the domain of customary law. Moreover, this principle underpinned the transformation of local practices and traditions into binding legal norms. Far from being merely a moral maxim, *emr bi’l-ma’rûf ve nehy ‘ani’l-münker* provided a discursive and theological framework that legitimized the codification of customary practices (*‘örf*), allowing the Ottoman state to align custom with divine mandate. The section proceeds by examining the Qur’anic basis of the principle, its historical interpretation in classical Islamic thought, and the semantic evolution of *ma’rûf* and *münker* from pre-Islamic usage to post-classical jurisprudence. It then analyzes how this evolution shaped the Ottoman conception of legal authority—particularly by enabling the sultan, as *ulü’l-emr*, to codify custom,

suppress innovation (*bid'ât*), and maintain *nizâm-ı âlem* through the implementation of customary law.

The command “*emr bi'l-ma'rûf ve nehy 'ani'l-münker*” appears in multiple verses of the Qur'an and hadith, where it is framed as a collective duty that defines the moral character of the Muslim community.³¹² The principle is commonly translated as “commanding right and forbidding wrong” or “enjoining good and forbidding evil.”³¹³ However, despite its repeated invocation, the Qur'an does not offer a systematic definition of “*ma'rûf*” and “*münker*.”³¹⁴ This semantic indeterminacy is crucial, as it allows the meanings of these terms to be shaped by interpretive tradition, socio-political context, and institutional authority. Rather than functioning as a fixed moral code, the principle operates as an open-ended normative injunction—inviting continuous interpretation of what constitutes right/good (*ma'rûf*) and wrong/evil (*münker*). This openness, in turn, gave rise to extensive scholarly debates among Muslim jurists and intellectuals concerning both the scope of the principle and the legitimate methods of its enforcement.

In addition to its Qur'anic articulation, the principle of “*emr bi'l-ma'rûf ve nehy 'ani'l-münker*” was further elaborated in hadith literature, most notably through a prophetic tradition that outlines three modes of corrective action: “Whoever among you sees a wrong, let him change it with his hand; if he is unable, then with his tongue; and if he is unable, then with his heart—and that is the weakest of faith.”³¹⁵ This hadith

³¹² Mustafa Çağrıç, “Emr bi'l-Ma'rûf Nehy ani'l-Münker,” *TDV İslâm Ansiklopedisi*, accessed February 18, 2025, <https://islamansiklopedisi.org.tr/emir-bil-maruf-nehiy-anil-munker>. See Qur'an Sura Al 'Imran (3:104, 3:110), At-Tawba (9:71, 9:112), Al-Hajj (22:41) and Sura Luqman (31:17).

³¹³ See Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2001).

³¹⁴ Çağrıç, “Emr bi'l-Ma'rûf Nehy ani'l-Münker.”

³¹⁵ Al-Nawawi, *Forty Hadith of al-Nawawi*, Hadith no. 34, accessed May 13, 2025, <https://sunnah.com/nawawi40:34>; Çağrıç, “Emr bi'l-Ma'rûf Nehy ani'l-Münker.”

became a foundational text for understanding the gradations of moral responsibility in Islamic thought, distinguishing between physical intervention, verbal admonition, and internal disapproval.³¹⁶ Michael Cook, in his seminal study *Commanding Right and Forbidding Wrong in Islamic Thought*, develops this framework into what he terms the “three-mode tradition,” analyzing how it shaped juridical and sectarian interpretations across Islamic history.³¹⁷ Cook’s analysis highlights the tension between personal duty and collective enforcement, as well as the various conditions under which different actors—individuals, scholars, or rulers—were deemed authorized to act. However, while Cook provides a comprehensive account of the ethical and theological dimensions of the principle, his study largely overlooks the socio-political and legal mechanisms through which *ma’rûf* and *münker* were defined and enforced in practice. Moreover, he does not explore the semantic evolution of these terms. According to Cook, early interpretations of the command were primarily concerned with affirming Islam’s core message—namely, the oneness of God (*tevhîd*) and the legitimacy of the Prophet—while opposing polytheism (*şirk*) and disbelief (*küfr*).³¹⁸ As a result, his account remains confined to the doctrinal and devotional scope of the principle, without addressing its broader normative role in shaping legal and administrative order.

Classical philological and exegetical sources indicate that the term “*ma’rûf*” was historically understood in close association with custom, social recognition, and normative acceptability.³¹⁹ During the pre-Islamic era (*câhiliyye dönemi*), the primary criterion for determining whether an action was considered “*ma’rûf*” (good) or

³¹⁶ Cook, *Commanding Right* ..., 11.

³¹⁷ Cook, *Commanding Right* ..., xiii–xiv.

³¹⁸ Cook, *Commanding Right* ..., 22–23.

³¹⁹ Çağrıçı, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

“*münker*” (bad) was its conformity to tribal customs and traditions.³²⁰ Furthermore, in early Arabic literature, including works such as Abu Tammâm’s (d. 845) *al-Hamâsa*, “*’örf*” was frequently used interchangeably with “*ma’rûf*,” and “*nükr*” was employed in place of “*münker*.”³²¹ Râghib al-Isfahânî (d. 1108), for instance, defines *ma’rûf* as that which is acknowledged as good by both reason and divine law, highlighting its dual epistemic basis.³²² Similarly, Fakhr al-Din al-Râzî (d. 1210) identifies *ma’rûf* as a well-established and socially accepted practice, while Ibn Manzûr (d. 1312) describes it as “that which is beneficial, agreeable to human nature, and recognized by society.”³²³ Ibn Manzûr also notes that, like *’örf*, the term *ma’rûf* is used to denote good and virtuous actions.³²⁴ These definitions reveal a deep conceptual overlap between “*ma’rûf*” and *’örf*, both of which rely on the idea of collective recognition and continuity of practice. In many cases, *ma’rûf* functioned not merely as a moral or spiritual category, but as a descriptive term for socially embedded norms that were publicly intelligible, reasonable and practically enforceable. Conversely, *münker* referred to practices that lacked communal recognition—those deemed foreign, disruptive, or innovative (*bid’at*) in relation to established tradition.

Linguistically, both “*’örf*” and “*ma’rûf*” derive from the same trilateral Arabic root, “*’-r-f* (ع-ر-ف),” which connotes recognition, knowledge, and familiarity. This etymological connection reflects a shared conceptual foundation: in their earliest usages, both terms referred to practices that were known, socially recognized, accepted, transmitted across generations and commendable.³²⁵ By contrast, “*münker*”

³²⁰ Çağrıç, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

³²¹ Çağrıç, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

³²² Çağrıç, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

³²³ Çağrıç, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

³²⁴ Çağrıç, “Emr bi’l-Ma’rûf Nehy ani’l-Münker.”

³²⁵ Ayman Shabana, “Custom in the Islamic Legal Tradition,” in *The Oxford Handbook of Islamic Law*, ed. Anver M. Emon and Rume Ahmed (Oxford University Press, 2018), 232.

stems from the root “*n-k-r* (ن-ك-ر),” which denotes denial, rejection, unfamiliarity, and condemnable.³²⁶ These linguistic origins are revealing: while *ma‘rūf* and ‘*ōrf* describe what is known, customary and collectively affirmed, *münker* refers to what is unknown, unrecognized, innovation or socially deviant. This contrast underscores the original relational nature of Islamic moral vocabulary, in which ethical value was grounded in communal recognition rather than in abstract or strictly scriptural definitions.

However, over time, this broad semantic field was gradually narrowed. *Ma‘rūf*, once closely aligned with established custom and communal recognition, increasingly came to denote moral rectitude as defined by sharia and religious doctrine. Salafī and Ash‘arī scholars, for instance, generally defined *ma‘rūf* as “that which the *sharia* considers good in word and deed,” and *münker* as “that which the *sharia* deems objectionable or harmful. This semantic narrowing and shift weakened the historical role of *ma‘rūf* as a vehicle for integrating communal practice into the Islamic legal-moral order. This narrowing of meaning was reinforced by the broader institutionalization of Islamic law in the post-classical period, during which jurists became more cautious about incorporating ‘*ōrf*, allowing it only when it clearly conformed to textual sources.³²⁷ This shift obscured the historical role of *ma‘rūf* as a vehicle for integrating communal practice into the Islamic legal-moral order. This

³²⁶ Shabana, “Custom in the Islamic ...,” 232.

³²⁷ Noel James Coulson, “Muslim Custom and Case-Law,” *Die Welt Des Islams* 6, no. 1/2 (1959): 14. For detailed discussions on the evolving role of ‘*ōrf*, see Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964); Joseph Schacht, *Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1967); Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden, The Netherlands: Brill, 1999); Sherman A. Jackson, “Taqīd, Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory Muṭlaq and ‘Amm in the Jurisprudence of Shihāb al-Dīn al-Qarāfī,” *Islamic Law and Society* 3, no. 2 (1996): 165–92; Wael Hallaq, *Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005); Gideon Libson, “On the Development of Custom as a Source of Law in Islamic Law: Al-Rujū‘u Ilā al-‘urfī Aḥadu al-Qawā‘idi al-Khamisi Allatī Yatabannā ‘alayhā al-Fiqhu,” *Islamic Law and Society* 4, no. 2 (1997): 131–55; Ahmed Fekry Ibrahim, “Customary Practices as Exigencies in Islamic Law,” *Oriens* 46, no. 1/2 (2018): 222–61.

semantic shift, which gradually narrowed the broad and multifaceted meanings of *ma'rûf* and *münker* over time, reflects a tendency to reinterpret these concepts within a more restricted framework.

Understanding the semantic and historical evolution of the terms *ma'rûf* and *münker*—from denoting established communal and local custom to being narrowly defined by *sharia*-based moral correctness—offers critical insights into the legal, political, administrative and social functions of the Qur'anic command *emr bi'l-ma'rûf ve nehy 'ani'l-münker* in the early modern Ottoman context. When *ma'rûf* was closely aligned with *'örf* and *'âdet*, the principle operated as a mechanism for maintaining *nizâm-ı 'âlem* by institutionalizing inherited communal norms. In this light, “commanding right” did not merely entail the imposition of abstract ethical standards, but rather the affirmation and reinforcement of familiar, time-tested practices that ensured a harmonious and orderly collective life. This is not to suggest that *ma'rûf* lacked moral connotation in the Ottoman context. Rather, it retained its ethical meaning as “that which is good and right,” but what counted as *good* was largely shaped through recognized and accepted customary practices (*'örf* and *'âdet*)—so long as these were not in conflict with the principles of *sharia*. By contrast, “forbidding wrong” was understood as the rejection of unfamiliar, disruptive, or unrecognized innovations (*bid'ât*)—practices that lacked communal legitimacy and were seen to threaten the coherence of the established social order. In a similar vein, what was deemed *bad* or *wrong* was frequently defined not in abstract moral terms, but through its divergence from accepted norms (*'âdet*) and its perceived threat to social cohesion. This perspective is reflected in the writings of classical Muslim thinkers such as al-Ghazzâlî and Ibn Taymiyya (d. 1328), who emphasized the indispensable role of *emr bi'l-ma'rûf ve nehy 'ani'l-münker* in preserving moral integrity and societal

cohesion.³²⁸ Ibn Taymiyya, in particular, considered these duties to be fundamental laws of human society, warning that their neglect would result in the erosion of justice, the collapse of unity, social harmony and the disintegration of socio-political order.³²⁹ As such, the classification of *ma'rûf* and *münker* frequently coincided with that of *'âdet* and *bid'ât*, highlighting how the preservation of *nizâm-ı 'âlem* depended on safeguarding customary order. In this perspective, this principle extended well beyond the sphere of individual moral responsibility, functioning historically as a tool for regulating society and safeguarding political legitimacy.³³⁰

In the Ottoman context, the sultan—conceived as *ulü'l-emr*, the divinely sanctioned authority to whom Muslims were commanded to give obedience—was the primary agent responsible for implementing *emr bi'l-ma'rûf ve nehy 'ani'l-münker*.³³¹ This Qur'anic injunction not only obligated ruler to uphold social and moral order, but also provided the theological basis for his authority to do so. While Islamic legal theory traditionally reserved the right to command and prohibit for God and His Prophet, the imperative to maintain *nizâm-ı 'âlem* legitimated the sultan's enactment of customary laws. These laws were justified and legitimized through the principle of *emr bi'l-ma'rûf*, which empowered the ruler to uphold justice, codify local customs, and eliminate *bid'ât* in the service of social order and *nizâm-ı 'âlem* in general. In this framework, the sultan implemented this divine command not only by enforcing *sharia* but also by transforming recognized customs into binding regulations and eliminating practices that endangered the established order. This underscores the central role of *ma'rûf* and *münker*—understood through the lens of *'âdet* and *bid'ât*—as tools through

³²⁸ Çağrıçı, “Emr bi'l-Ma'rûf Nehy ani'l-Münker.”

³²⁹ Çağrıçı, “Emr bi'l-Ma'rûf Nehy ani'l-Münker.”

³³⁰ Cook, *Commanding Right* ..., 15–19.

³³¹ See Qur'an (4:59).

which the Ottoman state sustained *nizâm-ı âlem*. Thus, the principle of *emr bi'l-ma'rûf ve nehy 'ani'l-münker* served not merely as a moral and legal foundation for the sultan's authority, but as a comprehensive framework for enforcing political order, exercising legislative power, codifying tradition, and preserving the cohesion of Ottoman society.

In conclusion, the principle of *emr bi'l-ma'rûf ve nehy 'ani'l-münker* illuminates the broader logic through which the Ottoman state reconciled its dual commitments to divine law and administrative necessity. The semantic and historical evolution of *ma'rûf*—from a concept rooted in custom and social recognition to a term narrowly defined by religious propriety—reflects the shifting legal understanding that accompanied the formation of customary law. This transformation empowered the sultan not merely as an enforcer of *sharia*, but as a legislator whose authority to regulate public order and codify tradition was framed as a divine mandate. Seen in this light, the integration of *sharia* and customary law was not a legal compromise but a calculated synthesis—one that allowed the state to institutionalize continuity, ensure coherence, and preserve *nizâm-ı âlem* as both an ideal and a practice.

As the preceding analysis has shown, the Ottoman legal-political imagination legitimized the codification of custom not only through juristic mechanisms, but also through Qur'anic principles such as *emr bi'l-ma'rûf ve nehy 'ani'l-münker*. Together with the institutional codification of Islamic rulings (3.1), the administrative and deterrent functions of sultanic legislation (3.2), and the discursive strategies to reconcile *örf* and *sharia* (3.3), this framework reveals a layered and flexible legal order centered on the pursuit of *nizâm-ı âlem*. Building on this foundation, the following chapter examines the historical construction of *âdet-i kadîme*—a category of “ancient custom” that acquired normative force within the imperial legal order. By analyzing

how such customs were invoked, validated, and transformed into binding legal norms, the chapter investigates the rhetorical and institutional processes through which continuity, legitimacy, and order were discursively produced in the early modern Ottoman Empire.



CHAPTER IV

RECORDING AND CODIFYING TRADITION: THE LEGAL- ADMINISTRATIVE CONSTRUCTION OF *‘ÂDET-İ KADÎME* IN THE OTTOMAN EMPIRE

4.1 Theorizing *‘Örf* and *‘Âdet*: From Islamic Legal Thought to Ottoman Practice

The concepts of *‘örf* and *‘âdet* occupy a central position in Islamic and Ottoman legal traditions, yet their precise meanings, usages, and interrelations have often remained fluid and context-dependent. In both theoretical discourse and practical

governance, these terms were invoked to refer to diverse forms of normative authority, social practice, and legal precedent. Understanding how *‘örf* and *‘âdet* were theorized and operationalized is therefore essential for grasping the normative logic behind Ottoman invocations of *‘âdet-i kadîme*—a notion whose legitimacy rested not only on historical continuity but also on the discursive strategies through which custom was defined. This section lays the conceptual groundwork for examining how *‘örf* and *‘âdet* were framed and employed across different registers—from Islamic jurisprudence to Ottoman administrative practice. By tracing the terminological and functional dimensions of these concepts, the chapter not only clarifies their historical valence but also identifies the key expressions through which local custom was articulated in Ottoman legal discourse. While the temporal aspects of custom will be explored in a later chapter, the present inquiry provides the analytical and semantic scaffolding necessary to understand how certain practices gained the authority of tradition in the first place.

4.1.1 Conceptual Distinctions Between *‘Örf* and *‘Âdet* in Islamic Legal Thought

Before exploring how particular practices came to be recognized as *‘âdet-i kadîme* within the Ottoman legal order, it is essential to first consider how the concepts of “*‘örf*” and “*‘âdet*” have been understood in Islamic legal and philosophical thought. Although frequently invoked in both legal and social contexts, the precise relationship between these terms remains complex. What distinguishes *‘örf* from *‘âdet*? What makes one form of habitual practice rise to the level of normative authority, while another remains informal or descriptive? And to what extent have scholars attempted to draw a stable boundary between them? This section outlines key conceptual

distinctions developed within Islamic jurisprudence not as fixed definitions, but as a heuristic framework—one that will later help analyze how certain practices gained recognition as *‘âdet-i kadîme*.

The concepts of *‘örf* and *‘âdet* have played a central role in Islamic legal and social thought, yet their definitions and practical applications have varied considerably across time, regions, and scholarly traditions.³³² Linguistically, *‘örf* (Arabic: *‘urf*, from the root *‘-r-f*, “to know”) refers to what is known, recognized, or socially approved.³³³ It typically denotes a convention that acquires normative force through sustained public use, collective approval and institutional recognition. As previously discussed, this normative dimension links *‘örf* closely to *ma ‘rûf*, which in Islamic jurisprudence denotes commendable and praiseworthy acts. a term in Islamic jurisprudence referring to acts that are morally commendable and socially accepted. By contrast, *‘âdet* (Arabic: *‘âda*, from the root *‘-v-d*, “to return” or “to repeat”) signifies repetition — a behavior or practice that becomes second nature through continuous performance, without necessarily being consciously chosen or normatively charged.³³⁴ While both terms refer to forms of habitual conduct, *‘âdet* emphasizes frequency and regularity, whereas *‘örf* implies a layer of communal judgment, utility, and moral validation.

While the interchangeable use of *‘örf* and *‘âdet* is widespread in both premodern and modern Islamic legal discourse, many scholars have sought to draw a conceptual distinction between them.³³⁵ Ayman Shabana notes that whereas some

³³² On the conceptual distinction between custom and tradition, see Hobsbawm, “Introduction: Inventing Traditions,” 1–14.

³³³ Shabana, “Custom in Islamic ...,” 231; Ibrahim Kâfi Dönmez, “Örf,” *TDV İslâm Ansiklopedisi*, accessed March 4, 2025, <https://islamansiklopedisi.org.tr/orf#1>.

³³⁴ Hayreddin Karaman, “Âdet,” *TDV İslâm Ansiklopedisi*, accessed March 4, 2025, <https://islamansiklopedisi.org.tr/adet#1>; Ayman Shabana, *Custom in Islamic Law and Legal Theory: The Development of ‘Urf and ‘Adah in the Islamic Legal Tradition* (New York, NY: Palgrave Macmillan, 2010), 50.

³³⁵ Dönmez, “Örf;” G.H. Bousquet, “‘ÂDA,” in *Encyclopedia of Islam*, ed. H.A.R. Gibb et. al., vol. I (Leiden, The Netherlands: E.J. Brill, 1986), 170.

jurists treat the terms as synonyms for habitual and socially embedded practices, others emphasize important differences.³³⁶ In Islamic discourse, one such difference lies in their epistemological and normative foundations. According to Shabana, while *‘örf* often involves elements of rational deliberation, social utility (such as the preference for specific transactional practices due to their practicality) and collective agreement, *‘âdet* tends to emerge from unconscious repetition and individual habit—patterns of behavior that are internalized over time without deliberate choice.³³⁷

Another key distinction between *‘örf* and *‘âdet* lies in the scope of their application, whether at the individual or collective level.³³⁸ *‘Âdet* typically refers to behaviors that originate at the individual or small group level, emerged through external stimuli, or situational regularities and ingrained through unconscious repetitions. In contrast, *‘örf* refers to behavioral norms that are collectively and consciously practiced publicly recognized, and socially enforced.³³⁹ As Hakan Karateke observes, *‘âdet* arises from personal choices and habits, while *‘örf* responds to the socio-psychological demands of a community.³⁴⁰ In this framework, it becomes possible to argue that while all *‘örf* originates from some form of *‘âdet*, not all *‘âdet* carries the collective or normative force necessary to become *‘örf*.³⁴¹

Beyond differences in repetition and scale, *‘örf* and *‘âdet* also diverge in terms of their normative authority. *‘Âdet*, as a private or group-specific habit, does not necessarily carry binding legal or moral force. *‘örf*, by contrast, acquires normative

³³⁶ Shabana, “Custom in Islamic ...,” 232.

³³⁷ Shabana, “Custom in Islamic ...,” 232.

³³⁸ Besim S. Hakim, “The ‘Urf’ and Its Role in Diversifying the Architecture of Traditional Islamic Cities,” *Journal of Architectural and Planning Research* 11, no. 2 (1994): 110.

³³⁹ Hakim, “The ‘Urf’ ...,” 110; Shabana, *Custom in Islamic Law* ..., 50.

³⁴⁰ Karateke, “Osmanlı Devletinde ...,” 117–18.

³⁴¹ Mohammad Akram Laldin, “The Theory and Application of ‘Urf in Islamic Law,” (unpublished, Ph.D. thesis University of Edinburgh Press, 1995), 22; Zakariyah, *Legal Maxims* ..., 174; Shabana, “Custom in Islamic ...,” 232.

legitimacy through collective recognition. Therefore, it is seen as both reasonable and socially appropriate, aligning with shared conventions and often with religious values as well. In this capacity, *‘örf* not only shapes behavior in socially meaningful contexts but also serves as a functional basis for legal regulation. Since all societies require mechanisms to regulate conduct and maintain cohesion, this necessity grants *‘örf* a distinct degree of authority. While deviation from *‘âdet* may lead to social disapproval or ridicule, violating *‘örf* is often met with stronger communal or institutional reactions, due to its prescriptive nature.³⁴² Therefore, while *‘örf* dictates that what has been practiced in the past should continue in the present, *‘âdet* does not inherently carry the prescriptive notion of “what ought to be” (*olması gereken*) alongside “what has been done” (*olagelen*).³⁴³ In this sense, *‘örf* contains both a factual component—repeated practice—and a formal component—the normative acknowledgment of that repetition. *‘Âdet*, by contrast, remains descriptive rather than prescriptive: it reflects “what has been done,” but not necessarily “what ought to be.”³⁴⁴ For example, the prohibition against appearing in public fully unclothed may be regarded as *‘örf*, reflecting a socially enforced boundary of acceptable behavior. In contrast, expectations regarding specific styles of dress—such as color, cut, or ornamentation—may be considered *‘âdet*, shaped by local preference and cultural habit rather than normative obligation.³⁴⁵

While the conceptual distinction between *‘örf* and *‘âdet* provides useful analytical clarity, it is equally important to acknowledge that these categories were not always fixed or mutually exclusive in practice. Instead, they often functioned along a

³⁴² Karateke, “Osmanlı Devletinde ...,” 118; Alaaddin Yanardağ, “Örf ve Adetler Sosyolojisi,” *Iğdır Üniversitesi İlahiyat Fakültesi Dergisi*, no. 9, (2017): 41.

³⁴³ Dönmez, “Örf;” Yanardağ, “Örf ve Adetler ...,” 41.

³⁴⁴ Shabana *Custom in Islamic ...*, 50.

³⁴⁵ Yanardağ, “Örf ve Adetler ...,” 42.

continuum, where certain forms of *‘âdet* may evolve into *‘örf* through processes of social validation and normative consolidation.³⁴⁶ When habitual, unwritten practices become associated with moral judgments—such as right and wrong—and gain broad communal recognition, they embed themselves in the collective memory of large social groups. Over time, this embeddedness lends them a sense of legitimacy and informal enforceability, transforming them into *‘örf*.³⁴⁷ This transformation is frequently supported by emotional attachment: individuals internalize these customs and consciously or unconsciously strive to preserve and transmit them to future generations. Unlike formal legal norms, the practice of *‘âdet* is not mandated by state authority; rather, individuals follow these customs out of familiarity, convenience, or social comfort.³⁴⁸ Yet as these practices become increasingly standardized across a society, they begin to serve as informal mechanisms of social regulation.³⁴⁹ In this way, they not only foster a sense of belonging but also reinforce communal cohesion by minimizing behavioral unpredictability. Once such practices attain broad acceptance and social regulatory power, they effectively acquire the status of *‘örf*.

Although Islamic legal thought sought to maintain a conceptual distinction between *‘örf* and *‘âdet*—emphasizing their differences in origin, scope, and normative force—this distinction was far less stable in historical practice. In the Ottoman context, legal, administrative, and intellectual sources often treated these terms with notable fluidity, employing them interchangeably or in overlapping ways depending on context. Rather than reflecting a fixed dichotomy, the Ottoman usage of *‘örf* and *‘âdet*

³⁴⁶ Bousquet, “‘ÂDA.”

³⁴⁷ Yanardağ, “Örf ve Adetler ...,” 42; Karateke, “Osmanlı Devletinde ...,” 118.

³⁴⁸ Karateke, “Osmanlı Devletinde ...,” 118.

³⁴⁹ Karateke, “Osmanlı Devletinde ...,” 118.

reveals a semantic and functional continuum shaped by institutional needs, rhetorical strategy, and political expediency.

The following section turns to the Ottoman legal and administrative corpus to explore how these concepts were actually deployed in law codes, official documents, and scholarly texts. By tracing the flexible meanings and practical usages of *‘örf* and *‘âdet*, it becomes possible to assess how Ottoman actors navigated, blurred, and sometimes instrumentalized this conceptual distinction in ways that diverged from classical jurisprudential models.



4.1.2 *‘Örf* and *‘Âdet* in Ottoman Usage: Conceptual Overlap and Practical Interchangeability

Having outlined the conceptual distinctions between *‘örf* and *‘âdet* in Islamic legal thought, the focus now turns to their usage in the Ottoman legal and administrative context. The aim is to examine whether the semantic and functional boundaries between these terms were maintained, blurred, or collapsed altogether. By analyzing imperial *kânûnnâmes*, this section explores how *‘örf* and *‘âdet* were invoked, to what extent they were used interchangeably, and what institutional purposes they served. Through this inquiry, the analysis seeks to determine whether the theoretical dichotomy articulated in Islamic jurisprudence found practical

expression in Ottoman governance—or whether a more flexible, pragmatic approach prevailed.

In assessing how *‘örf* and *‘âdet* were employed in the Ottoman context, it is striking that the two terms often appeared side by side, yet without a clearly articulated boundary between them. An early lexicographical witness to this conceptual fluidity is Franz Meninski’s (d. 1698) *Thesaurus Linguarum Orientalium*, a comprehensive seventeenth-century dictionary juxtaposing Ottoman Turkish with Latin, Italian, French, German, and Polish. In this work, Meninski defines *‘âdet* primarily as habit, custom, or repeated practice—drawing on European equivalents such as “*consuetudo*,” “*habitus*,” “*Gewohnheit*,” “*coutume*,” and “*zwyczaj*” to convey its association with continuity, repetition, and social acceptance.³⁵⁰ Yet several examples he provides—such as “*‘âdet-i kânûnî*” (“legal custom”), “*‘âdet-i kadîme*” (“ancient custom”), “*‘âdet ve kânûn-i şehriyârî-i müstedîme-i sâhibkâranları üzere*” (“in accordance with the enduring imperial customs and laws of the exalted sovereigns”), and “*‘âdet-i sa‘âdet-i ‘âliyye üzere*” (“in accordance with the venerable custom of the exalted Ottoman state”)—suggest that *‘âdet* could also denote collectively recognized and institutionalized norms within the legal and administrative structure of the early modern Ottoman state.³⁵¹ Supporting this broader semantic range, Mertol Tulum’s *17. Yüzyıl Türkçesi ve Söz Varlığı*—compiled using Meninski’s *Thesaurus* alongside Evliya Çelebi’s *Seyahatnâme*—defines *‘âdet* not only as *habitus* and *mu‘tâd* (customary or habitual) but also through terms such as *kânûn* (law), *kâ‘ide* (rule or principle), and *töre* (customary norm), thus reinforcing its norm-producing and rule-

³⁵⁰ Franz Meninski, “‘Âdet,” in *Thesaurus Linguarum Orientalium Turcicae-Arabicae-Persicae*, vol. 2 (Vienna: Typis Universitatis, 1680), 3183–84.

³⁵¹ Meninski, “‘Âdet,” 3183–84.

bound connotations.³⁵² In this respect, Meninski's treatment of *'âdet* blurs the conceptual boundaries with *'örf*, as his examples suggest that *'âdet* occasionally operates not merely as a descriptor of social habits, but as a vehicle of normative regulation and institutional legitimacy.

Meninski's entry on *'örf* spans an even broader semantic field, including metaphorical meanings such as "odor," "patience," or "the crest of a rooster." At its core, however, the term aligns with the classical Islamic conception of *ma'rûf*—that which is collectively recognized, accepted, and proper within the prevailing moral framework.³⁵³ Notably, Meninski does not present *'örf* as a source of legal authority derived from the sultan's legislative power or endowed with normative force, as it came to function in early modern Ottoman jurisprudence.³⁵⁴ Instead, his lexicon reveals a conceptual zone of overlap rather than a rigid distinction: while *'âdet* occasionally assumes normative dimensions, *'örf* remains portrayed as a collectively embedded practice, detached from its emerging juridico-political role within the Ottoman imperial order.

This conceptual entanglement becomes further refined in later Ottoman thought, particularly in Şemseddin Sami's *Kâmûs-ı Türkî* (1899), one of the most influential lexicographical works of the late nineteenth century. There, *'âdet* is defined as a habitual practice widely observed by society—encompassing both individual habits and collective customs—while *'örf* is described as a rule or usage not explicitly mandated by *sharia*, but arising from local needs, temporal conditions, or

³⁵² Mertol Tulum, "'Âdet," in *17. Yüzyıl Türkçesi ve Söz Varlığı*, ed. Mertol Tulum (İstanbul: TDK, 2011), 319.

³⁵³ Meninski, "'Örf," 3248–49.

³⁵⁴ Meninski, "'Örf," 3248–49.

administrative expediency.³⁵⁵ Although this formulation bears some resemblance to the conceptual distinction drawn in Islamic jurisprudence—particularly in its definition of *‘örf*—the treatment of *‘âdet* as a socially observed practice deviates from the earlier emphasis on unconscious repetition and individual behavior.

An analysis of Ottoman legal and administrative documents reveals a wide array of expressions used to designate longstanding practices that were considered compatible with *sharia* and recognized as customary. These included phrases such as “*‘âdet-i kadîme*” (“ancient *tradition*”), “*‘âdet-i müstemirre*” (“habitual practice”), “*kânûn-ı kadîm*” (“ancient law”), “*‘örf-i ma’rûf*” (“recognized custom”), “*te’âmül*” (“usage”), “*‘örf-i belde*” (“local custom”). Such diversity in terminology—cutting across terms like *‘âdet*, *‘örf*, and even *kânûn*—stands in contrast to the clearer distinctions maintained in Islamic jurisprudence, thereby calling for a critical reexamination of how the concept of custom was articulated and operationalized within the Ottoman legal lexicon.

Despite this terminological fluidity in Ottoman legal documents, Halil İnalcık draws a conceptual distinction between “*‘örf-i sultânî*” and “*‘örf u ‘âdât*.” In his view, “*‘örf-i sultânî*” refers to legal norms issued by the sultan under his sovereign authority (*lex principis*), while “*‘örf u ‘âdât*” or “*‘örf-i ma’rûf*” denotes customary practices rooted in societal usage.³⁵⁶ Tursun Beg reinforces this distinction by describing *tedbîr* (statecraft grounded in rational principles) as a form of *‘örf* independent of *sharia*, and

³⁵⁵ Şemseddin Sâmî, “‘Âdet,” *Kâmus-i Türkî*, ed. Fazılhak Nergis and Aziz Ençakar (İstanbul: Şifa Yayınevi, 2015), 758. “1. Alışılmış şey, ülfet, her vakit yapılan: Sabah erken kalkmak ‘âdetidir: Bildiğini kimseye göstermemek ‘âdetidir. 2. Herkes tarafından riayet olunagelen hal: bu memleketin ‘âdeti budur, ‘âdet-i belde, ‘âdet-i hasene, ‘âdet-i seiyye...;” Sâmî, “‘Örf,” *Kâmus-i Türkî*, 769. “Şer’ ve kânûn ile mahdûd ve müeyyen olmayub ‘âdet-i belde ve icâb-ı vakt ve hâl iktizâsundan olan hükm ve icraat...”

³⁵⁶ Halil İnalcık, “Türk-İslâm Devletlerinde Devlet Kanunu Geleneği,” in *Osmanlı’da Devlet Hukuk ve Adâlet*, ed. Cüneyt Dalgakıran (İstanbul: Kronik, 2016), 34.

traces its precedent to the *Yasa of Chinggis Khan*.³⁵⁷ In this sense, the term *‘örf*, as used by Tursun Beg, refers not to communal custom but to pragmatic laws enacted by the ruler. Yet despite this conceptual differentiation, İnalcık also emphasizes the permeability between these categories. In addition to their authority to enact laws independently, the sultans also had the capacity to recognize and incorporate pre-existing customs and traditions (*‘örf u ‘âdât*) into the imperial legal order.³⁵⁸ This dynamic is particularly evident in the Ottoman approach to newly conquered territories, where local customs were often preserved and gradually absorbed into imperial governance. Through such selective incorporation, many long-standing local customary norms became part of the empire’s normative fabric and were codified as *‘örf-i ma‘rûf*—state-sanctioned customary law.³⁵⁹

However, it is important to emphasize that İnalcık’s distinction does not imply that the terms *‘örf* and *‘âdet* were consistently or categorically separated in actual Ottoman usage. Rather, his analysis demonstrates that *‘örf* could refer to both sultanic legislation and localized custom, depending on the context. This flexibility in meaning reinforces—rather than undermines—the argument that *‘örf* and *‘âdet* were often used interchangeably in Ottoman legal and administrative discourse. Notably, even Tursun Beg’s reference to the *Yasa of Chinggis Khan*—cited as a foundational model of *‘örf*—illustrates this conceptual overlap: the *Yasa* itself was a codification of Mongol customary practices, systematically transformed into law by sovereign authority.³⁶⁰ Thus, even what Tursun Beg classified as *‘örf*—though framed as pragmatic legislation—ultimately derived from localized *‘âdet*, reinforcing the view that the

³⁵⁷ Tursun Bey, *Tarih-i Ebü’l-Feth*, 12.

³⁵⁸ İnalcık, “Türk-İslâm Devletlerinde ...,” 34.

³⁵⁹ İnalcık and Anhegger, *Kânûnnâme-i Sultânî Ber Müceb-i ‘Örf-i Osmânî*, XI.

³⁶⁰ Halil İnalcık, “Osmanlı Hukukuna Giriş: Örfi-Sultani Hukuk ve Fatih’in Kanunları,” *Ankara Üniversitesi SBF Dergisi* 13, no.2 (1958): 106.

distinction between these terms, where it existed, was less the result of rigid semantic boundaries and more a reflection of pragmatic classification within specific legal or bureaucratic frameworks.

The semantic fluidity between “‘*örf*” and “‘*âdet*” is further reflected in the writings of early modern Ottoman intellectuals, where ‘*örf*’ is frequently used in ways that blur the line between communal custom and sultanic legislation. For instance, in Sinan Pasha’s —“*Her memlekette bir ‘örf olur ki onun nizâmı onunla olur; o ‘örfü gözetip ondan tecâvüz etmemek gerek, ve her vilâyette bir kânûn olur ki mesâlihi onunla düzülür, o kânûnu riâyet edip ondan taşra çıkmamak gerek*”— “‘*örf*” and “‘*kânûn*” are treated as to denote both local customs (‘*âdet*) and sultanic legislation.³⁶¹ Similarly, Tursun Beg employs the phrase “*siyâset-i sultânî ve yasağ-ı pâdişâhî dirler ki, örfümüzce ana ‘örf dirler,*” where the term “‘*örfümüzce*” clearly functions in the sense of “*according to our custom.*”³⁶² A comparable usage appears in Hezarfen Hüseyin Efendi’s seventeenth-century treatise *Telhîsü’l-Beyân*, where he asserts that “*her asrın bir örfü vardır ve her ‘örfün bir muktezâsı vardır*” (“every age has its custom, and every custom its requirement”).³⁶³ Here again, ‘*örf*’ is invoked as both imperial legislation and socially recognized practice. Taken together, these examples illustrate that in early modern Ottoman intellectual discourse, ‘*örf*’ did not exclusively signify either sultanic enactment or social habit. Instead, it operated across both registers, reflecting a pragmatic and context-sensitive approach that diverged from the sharper conceptual separation between ‘*örf*’ and ‘*âdet*’ found in classical Islamic jurisprudence.

³⁶¹ Sinan Paşa, *Maârif-Nâme* ..., 684.

³⁶² Tursun Bey, *Tarih-i Ebü’l-Feth*, 12.

³⁶³ Hezarfen Hüseyin Efendi, *Telhîsü’l-Beyân Fî Kavânîn-i Âl-i Osmân*, rev. Sevim İlgürel (Ankara: TTK, 1998), 198.

While these textual examples from early modern intellectuals highlight the semantic flexibility of “*örf*,” a similar pattern of conceptual fluidity can be observed in formal legal and administrative registers. Indeed, the historical development of these terms was not confined to abstract discourse but became increasingly visible in the terminology and structure of Ottoman legal codifications. Muharrem Midilli argues that the absence of the term *örf* in Mehmed II’s *Kânûnnâme-i Âl-i ‘Osmân* suggests that the term only became formally integrated into the legal lexicon after his reign (d. 1481).³⁶⁴ Although the term *örf* does not explicitly appear in the *Kânûnnâme-i Âl-i ‘Osmân*—a compilation that largely drew upon the legal practices of earlier reigns—its occurrence in pre-Mehmedian documents suggests that the concept was already recognized within the Ottoman bureaucratic vocabulary, even if it had not yet been formalized in official codifications.³⁶⁵ Halil İnalçık points to legislative and institutional reforms under Bayezid I (r. 1389–1402), including early references to customary taxes (*‘örfî vergiler*), land tenure regulation, the establishment of the *kûl* system, and the *tahrîr* apparatus (cadastral survey).³⁶⁶ Additional evidence comes from the Arvanid Timar register dated H. 835/1431–32, from the reign of Murad II (r. 1421–44; 1446–1451), which indicates that customary taxes had already been

³⁶⁴ Midilli, “Osmanlı’da Hukukun ...,” 662. It is unclear which manuscript Midilli used for his analysis. However, in my own examination of *Kanunnâme-i Âl-i ‘Osmân* using the TOEM (*Tarih-i Osmani Encümeni Mecmuası*) and the *Bedayi’ü’l-Vekayi* manuscript, as compiled by Abdülkadir Özcan in *Atam Dedem Kanunu: Kanunnâme-i Âl-i Osman*, I found that the term *örf* does not appear in the text. See, Özcan, ed., *Fatih Sultan Mehmed Atam Dedem Kanunu*

³⁶⁵ Midilli, “Osmanlı’da Hukukun ...,” 662; Tahsin Öz, “Murad I ve Emir Süleyman’a Ait İki Vakfiye,” *Tarih Vesikaları Dergisi* 4 (1941): 244. Midilli cites this document as evidence that the concept of *örf* was already known within the Ottoman bureaucracy before it was systematically incorporated into legal codification. The reference pertains to a *waqf* decree issued by Murad I on March 14, 1366, in which he exempts Ahi Musa from various state-imposed obligations (*cemi’i avâriz-ı divanî*) and customary levies (*tekâlif-i ‘örfiyye*). This usage of *örf* in an official document demonstrates its administrative recognition in the fourteenth century. Similarly, İnalçık argues that although some *‘örfî* regulations are attributed to Osman Gazi, there is no reliable evidence to support their historical validity. However, he considers the 1366 decree issued by Murad I, which exempts Ahi Musa from specific customary taxes, as proof that *‘örfî* law was already functioning as a legal basis before the reign of Mehmed II. See, İnalçık, “Osmanlı Hukukuna ...,” 107–109.

³⁶⁶ İnalçık, “Osmanlı Hukukuna ...,” 109.

institutionalized.³⁶⁷ However, it was during the reign of Mehmed II, through his extensive reforms, that customary law solidified its position as the dominant legal framework in the Ottoman state.³⁶⁸

By the early sixteenth century, this growing institutionalization of *‘örf* is clearly reflected in legal compilations such as the *Kitâb-ı Kavânîn-i ‘Örfiyye-i ‘Osmâniyye* (1501), where the term had become fully integrated into the Ottoman legal vocabulary.³⁶⁹ To further assess how key legal terms circulated in early imperial discourse, Yunus Koç conducted a quantitative analysis of four terms—*kânûn*, *şer‘*, *‘örf*, and *‘âdet*— across two foundational legal compilations: the Paris manuscript of the *Kavanîn-i ‘Örfiyye-i ‘Osmâniyye*, edited by Nicolae Beldiceanu, and the *Kânûnnâme-i Âl-i ‘Osman*, based on the Munich manuscript published by F. Kraelitz.³⁷⁰ His findings reveal that the terms *kânûn*, *‘örf*, and *‘âdet* appear significantly more frequently than *şer‘*, highlighting the central role of custom and imperial lawmaking in early Ottoman legal culture.³⁷¹

³⁶⁷ İnalçık, “Osmanlı Hukukuna ...,” 110.

³⁶⁸ İnalçık, “Osmanlı Hukukuna ...,” 110.

³⁶⁹ Midilli, “Osmanlı’da Hukukun ...,” 661–62. Midilli uses the manuscript housed in Koyunoğlu Museum in Konya (no. 69) to demonstrate the usage of the term *‘örf*, citing occurrences on folios 8a, 8b, 16b, 37b, 38a, 45a, 59b, and 15a. İnalçık argues that *Kitâb-ı Kavânîn-i ‘Örfiyye-i ‘Osmâniyye* was the enlarged and modified version of the *Kânûnnâme* of Mehmed II.

³⁷⁰ Yunus Koç, “Erken Dönem Osmanlı Hukuku: Yaklaşımlar, Temel Sorunlar,” *Hacettepe Üniversitesi Edebiyat Fakültesi Dergisi* 16 (December 1999), 122. See, F. Kraelitz Greifenhorst, “Kanunname Sultan Mehmeds des Eroberers,” *Mitteilungen zur Osmanischen Geschichte* I, (1922): 13–48; Nicoară Beldiceanu, *Code de lois coutumières de Mehmed II* (Wiesbaden: Otto Harrassowitz, 1967).

³⁷¹ In a comparative analysis of these manuscripts, *kânûn* appears 33 times in *Kitâb-ı Kavânîn-i ‘Örfiyye-i ‘Osmâniyye* (KO) and 37 times in the Munich manuscript of *Kânûnnâme-i Âl-i ‘Osman* (MM), whereas *şer‘* is mentioned 16 times in KO and 13 times in MM. The term *‘örf* appears 5 times in KO and 8 times in MM, while *‘âdet* is recorded 3 times in KO and 5 times in MM. Interestingly, while Koç’s analysis of the Munich manuscript (MM) highlights the presence of *‘örf*, my own examination of *Kânûnnâme-i Âl-i ‘Osman* using the TOEM (*Tarih-i Osmani Encümeni Mecmuası*) and the *Bedayi’ü’l-Vekayi’* manuscript, as compiled by Abdülkadir Özcan in *Atam Dedem Kanunu*, did not reveal the term *‘örf*. Although I have not personally examined the Munich manuscript, this discrepancy suggests that variations exist between different versions of the *kânûnnâme*, potentially reflecting differences in manuscript traditions or textual transmission over time.

The gradual institutionalization of *‘örf* is further reflected in the increasing frequency of its usage in legal texts from the fifteenth and sixteenth centuries. The recurring use of the terms *‘örf*, *‘âdet*, and related expressions in these sources underscores not only their centrality to the Ottoman legal framework but also the fluidity and interchangeability of their usage in practice. For instance, the *Kânûnnâme* of Hüdavendigâr Livâsı from 1487 includes more than ten instances of the term *‘örf*, appearing in formulations such as “*‘örf-i ma ‘rûf*” (recognized custom), “*‘hilâf-ı şer ‘ ve ‘örf*” (contrary to both sharia and customary law), “*kazâyâ-yı ‘örf*” (customary legal judgments), “*muktezâ-yı ‘örf*” (necessities of custom), *örfen* (by custom), and *rûsûm-ı örfiyye* (customary dues).³⁷² Additionally, other expressions referring to deeply rooted legal norms—such as “*kânûn-ı kadîm*” (ancient law), “*kadîmü ‘z-zamân*” (time-honored), “*olıgeldiği üzere*” (as it has been practiced), and “*alınagelmiştir*” (as it has been received)—appear frequently in the text, even if not explicitly labeled as *‘âdet*. The overall structure of the *Kânûnnâme* itself reflects the complex interweaving of *şer ‘î* and *‘örfî* frameworks. While the title references “applied Islamic laws” (“*kavânîn-i şer ‘iyye-i müte ‘amele*”), the actual content demonstrates the predominance of customary norms shaped by local practice.³⁷³ This contrast highlights how Ottoman legal codification often framed customary law within the discourse of *şer ‘î* legitimacy, while in practice, local customary norms continued to shape legal governance at the regional level. A similar pattern is observed in the 1548 *Kânûnnâme-i Vilâyet-i Şam*, where the term *‘âdet* appears no fewer than fifteen times in various forms, including “*‘âdetdir*,” “*cârî ‘âdetleridir*,” “*‘âdet-i kadîm*,” “*‘âdet-i kadîme*,” and “*‘âdet-i*

³⁷² For *Kânûnnâme-i Hüdâvendigâr Livâsı*, see Barkan, *XV ve XVI inci ...*, 1–6. While Muharrem Midilli has conducted a similar analysis, my findings are based on my own direct examination of the text in Barkan’s edition, where I independently identified and counted the occurrences of the term *‘örf*. See Midilli, *Osmanlı’da Hukukun ...*, 661–62.

³⁷³ Koç, “Erken Dönem Osmanlı Hukuku ...,” 121.

devre.”³⁷⁴ The recurrence of *‘âdet* in these forms suggests that many of the provisions in this regional legal code reflect longstanding pre-Ottoman legal traditions and localized customary norms that had been absorbed into the imperial framework. Lastly, this flexible usage persisted well into the seventeenth century, although over time, the terms *‘âdet* and *‘örf* became increasingly associated with—and at times subsumed under—the broader and more authoritative notion of *kânûn*.³⁷⁵ While the three terms were often employed interchangeably, *kânûn* gradually gained wider currency, often replacing *‘örf* and *‘âdet* in legal-administrative contexts. This shift reflects not a conceptual erasure, but rather a consolidation of imperial normative language around the figure of the sultanic law.

Whereas section 4.1.1 examined the normative and conceptual separation of *‘örf* and *‘âdet* in classical Islamic legal thought, this section has demonstrated that such separation was not rigidly maintained in the Ottoman context. Taken together, the evidence examined in this section suggests that the conceptual distinction between *‘örf* and *‘âdet*, sharply drawn in classical Islamic jurisprudence, did not translate into a rigid dichotomy in the Ottoman legal-administrative context. Instead, these terms were used with considerable semantic flexibility, often overlapping in function and rhetorical deployment. Whether in the writings of intellectuals, the codification of imperial law, or the bureaucratic registers of provincial governance, *‘örf* and *‘âdet* operated across a continuum of meaning—sometimes denoting local tradition, sometimes imperial legislation, and often both simultaneously. The Ottoman legal

³⁷⁴ Barkan, *XV ve XVI inci ...*, 220–27. Some occurrences of the term *‘âdet* in the *Kânûnnâme-i Vilâyet-i Şam* refer to long-established regional taxation practices. Examples include *‘âdet-i dellâliye*, *‘âdet-i dârü’l-bitûh*, and *‘âdet-i kadîm-i bâzâr-ı esb ‘an zamân-ı Kayıtbay*. These instances suggest that the term *‘âdet*, beyond denoting customs and traditions, was also used to signify taxes collected continuously over time, thereby integrating fiscal practices into the broader framework of local customs.

³⁷⁵ Hüseyin Yılmaz, “Law and State in Ottoman Political Thought,” in *Histories of Political Thought in the Ottoman World*, ed. Nedim Nomer and Kaya Şahin (New York, NY: Oxford University Press, 2024), 22.

system, rather than adhering to fixed conceptual boundaries, appears to have mobilized these terms pragmatically to suit evolving administrative needs and local realities. This fluid usage underscores not only the adaptability of custom as a legal category, but also the discursive strategies through which the Ottoman state integrated diverse social practices into its normative order. This semantic and functional fluidity between *‘örf* and *‘âdet* also opens the way for a deeper inquiry into how practices that initially fell outside the recognized framework of tradition—often labeled as *hâdis* or *bid‘at*—were subsequently evaluated over time. The next section explores the temporal and discursive mechanisms through which such practices could, under certain conditions, come to be reclassified as part of *‘âdet-i kadîme*.

4.2 From Innovation to Custom: The Temporal Evaluation of New Practices in Becoming *‘Âdet-i Kadîme*

In the early modern Ottoman Empire, not all social practices were immediately recognized as *‘âdet-i kadîme*; rather, they acquired this status through temporal and evaluative processes. This section explores how certain practices—initially perceived as unfamiliar or potentially disruptive to the *nizâm-ı ‘âlem*—were assessed for legitimacy within a framework shaped by concepts such as *hâdis* (“novel occurrence”) and *bid‘at* (“innovation”). Drawing on the analysis of Özer Ergenç, it examines how these terms functioned not as fixed classifications but as flexible indicators of a practice’s normative and temporal status.³⁷⁶ Particular attention is given to the

³⁷⁶ Ergenç, “Continuity and Change ...,” 558–59.

typology of *bid'at-ı hasene* (“commendable innovation”) and *bid'at-ı seyyi'e* (“reprehensible innovation”). This typology illustrates how temporality and legitimacy were negotiated between continuity and rupture. In doing so, the section shows how temporality served not only to preserve established tradition but also to reclassify emerging practices as part of the evolving corpus of *âdet-i kadîme*. In this context, the classification of new practices as either legitimate custom or illegitimate innovation reflected not merely their historical depth, but a broader legal-political logic aimed at maintaining *nizâm-ı âlem* (cosmic and social order). This section argues that the typology of *bid'at-ı hasene* and *bid'at-ı seyyi'e* served as tools through which the Ottoman state selectively authorized continuity or enforced rupture—mobilizing temporality as a means of legitimizing or rejecting emerging practices within its normative order.

In both Islamic and Ottoman thought, the emergence of new practices was not evaluated arbitrarily; rather, it was filtered through a set of conceptual categories that defined their normative status. Among the most significant of these were the terms *hâdis* and *bid'at*, which provided the language through which novelty was classified, contested, or potentially legitimated. While *hâdis* refers to newly emerging conditions or practices, *bid'at*—typically translated as “innovation,” in the sense of something newly introduced or derived later—often carries a negative connotation.³⁷⁷ In Islamic and Ottoman thought, *bid'at* typically denotes a post-Prophetic development,

³⁷⁷ Sâmî, “Hâdis,” 442. Sâmî defined “*hâdis*” as: “1. *Yeni zuhûr iden veyâ vukû' bulan, meydâna çıkan: bir mes'ele hâdis oldu.* 2. *Kadîm olmayan, sonradan vücûda gelmiş, mahlûk: 'Âlim-i hâdis dir.* 3. *Yeni, nev-zuhûr;”* *Kubbealtı Lügatı*, s.v. “*Bid'at*,” accessed April 26, 2024, <https://lugatim.com/s/BİD'AT>; Sâmî, “*Bid'at*,” 234. In this dictionary, *bid'at* is defined as “1. *Hâdis olan şey*, 2. *Dîne müte'allik olub, zamân-ı sa'âden sonra hâdis olan şey: bid'at -i hasene, bid'at -i seyyi'e.*” In the *Encyclopedia of Islam*, *bid'a* is defined as “innovation, a belief or practice for which there is no precedent in the time of the Prophet. It is the opposite of sunna and is a synonym of *muhdath* or *hadath*... Thus, a distinction came to be made between *bid'a* which was ‘good’ (*hasana*) or praiseworthy (*mahmûda*), and one which was ‘bad’ (*sayyi'a*) or blameworthy (*madhmûma*).” J. Robson, “*Bid'a*,” in *Encyclopedia of Islam*, New Ed., ed. H. A. R. Gibb, J. H. Kramers, E. Lévi-Provençal, and J. Schacht, vol. I (Leiden, The Netherlands: Brill, 1960), 1199.

especially one lacking precedent in the Sunna, and is therefore frequently associated with religious or moral deviation.³⁷⁸ Despite this negative connotation, *bid'at* and *hâdis* are conceptually linked: both signify novelty as it was negotiated and evaluated within an established normative order.

The phenomenon of *bid'at* in Islamic societies did not originate from a single cause or context. Rather, it emerged through a range of historical, cultural, and religious dynamics that varied across time and place. One major factor was the rapid spread of Islam into regions inhabited by communities with long-established traditions. Many of these customs, though rooted in pre-Islamic practice, were viewed with suspicion within the evolving Islamic normative order due to their unfamiliar forms or perceived inconsistency with religious precedent.³⁷⁹ In addition, the misinterpretation or localized adaptation of Islamic principles—whether stemming from limited religious knowledge among new converts or the lingering influence of earlier belief systems—led to the development of practices that diverged from accepted norms.³⁸⁰ Finally, sustained interaction with non-Muslim communities facilitated cultural exchange, through which certain external practices—once integrated into local contexts—acquired an ambiguous status and were at times regarded as religiously improper. Together, these overlapping dynamics shaped the discursive and social conditions under which certain innovations came to be identified and criticized as *bid'at*.

A comparable pattern can be observed in the Ottoman context. As the empire expanded across a vast and culturally diverse geography, Ottoman authorities

³⁷⁸ Katib Chelebi, *The Balance of Truth*, trans. G.L. Lewis (London: George Allen and Unwin, 1957), 89.

³⁷⁹ Rahmi Yaran, “Bid’at,” *TDV İslâm Ansiklopedisi*, accessed March 25, 2025, <https://islamansiklopedisi.org.tr/bidat>.

³⁸⁰ Yaran, “Bid’at.”

frequently encountered local traditions and practices that did not neatly align with established norms. These new or unfamiliar practices—shaped by regional histories, communal customs, and pragmatic needs—posed challenges to established legal system and the *nizâm-ı âlem*. Just as in earlier Islamic societies, the Ottomans had to navigate the tension between preserving continuity and incorporating novelty. This tension often manifested through the conceptual tools of *hâdis* and *bid'at*, which served to assess whether a new practice could be integrated into the accepted legal and moral order, or whether it represented a rupture that had to be rejected.

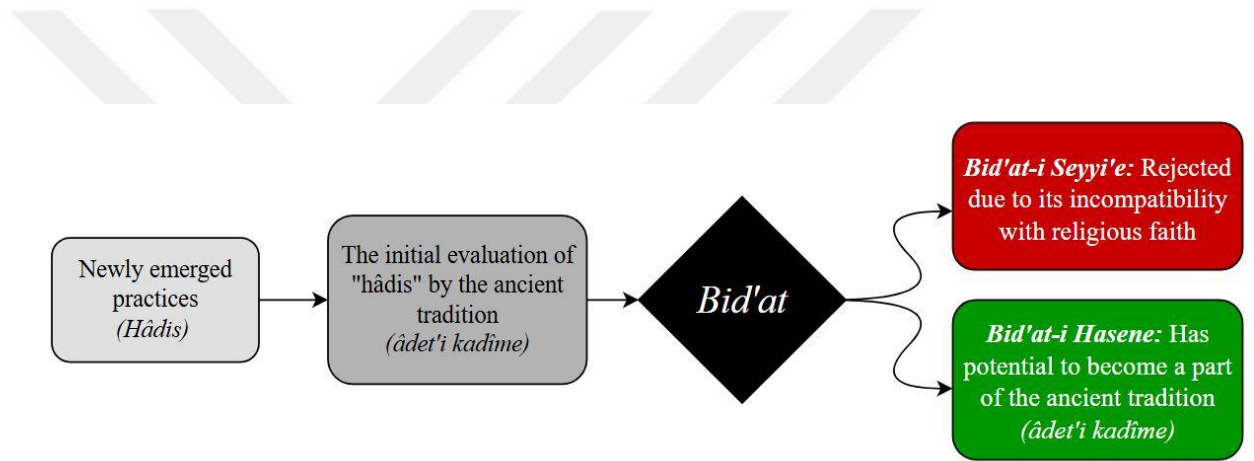


Figure 1 The formation process of the *'âdet-i kadîme*

In the Ottoman context, newly emerged customary practices were not immediately recognized as *'âdet-i kadîme*; rather, they were typically initially labeled as *hâdis*. Although *hâdis* had a neutral meaning and did not necessarily contradict existing custom, Although *hâdis* had a neutral meaning and did not necessarily contradict existing custom, it was nevertheless perceived as the conceptual opposite of *'âdet-i kadîme* and thus carried the potential to disrupt the established socio-political order and undermine the prevailing *nizâm-ı âlem*—a threat often described in

Ottoman documents with the phrase *ihtilâle bâ'is* ("a cause of disorder").³⁸¹ As Özer Ergenç has noted, this inherent tension between *'âdet-i kadîme* and *hâdis* often led to resistance, since *'âdet-i kadîme* functioned as a guardian of continuity and rejected *hâdis* as a sign of destabilizing change.³⁸² As a result, these newly emerging customs were initially classified as *bid'at* further reinforcing their status as deviations from legitimate tradition.³⁸³ In many cases, such resistance translated into strict preventative measures, instructing both officials and subjects to suppress the introduction or continuation of new practices.³⁸⁴

However, *bid'at* was not a uniform or unequivocally negative category. As illustrated in the diagram, innovations underwent further classification into two distinct types: *bid'at-ı hasene* (commendable innovation) and *bid'at-ı seyyi'e* (reprehensible innovation), both of which offer analytical insight into the historical dynamics of continuity and change that shaped the temporality of *'âdet-i kadîme*.³⁸⁵ According to Kâtib Çelebi (d. 1657), *bid'at-ı hasene* referred to innovations that had not existed during the time of the Prophet Muhammad but were subsequently permitted by religious authorities because they addressed emergent communal or institutional needs.³⁸⁶ According to Kâtib Çelebi, examples of *bid'at-ı hasene* included the construction of minarets and the reproduction of religious texts in book form.³⁸⁷ By contrast, Kâtib Çelebi defined *bid'at-ı seyyi'e* as religiously or socially unacceptable innovations, such as doctrinal deviations introduced by heterodox sects or

³⁸¹ Ergenç, "Continuity and Change ...," 559–60.

³⁸² Ergenç, "Continuity and Change ...," 560.

³⁸³ Ergenç, "Continuity and Change ...," 560.

³⁸⁴ Ergenç, "Continuity and Change ...," 560.

³⁸⁵ Ergenç, "Continuity and Change ...," 560.

³⁸⁶ Katib Chelebi, *The Balance of Truth*, 89.

³⁸⁷ Katib Chelebi, *The Balance of Truth*, 89.

unauthorized ritual forms developed by common people without legitimate grounding in recognized religious authority.³⁸⁸

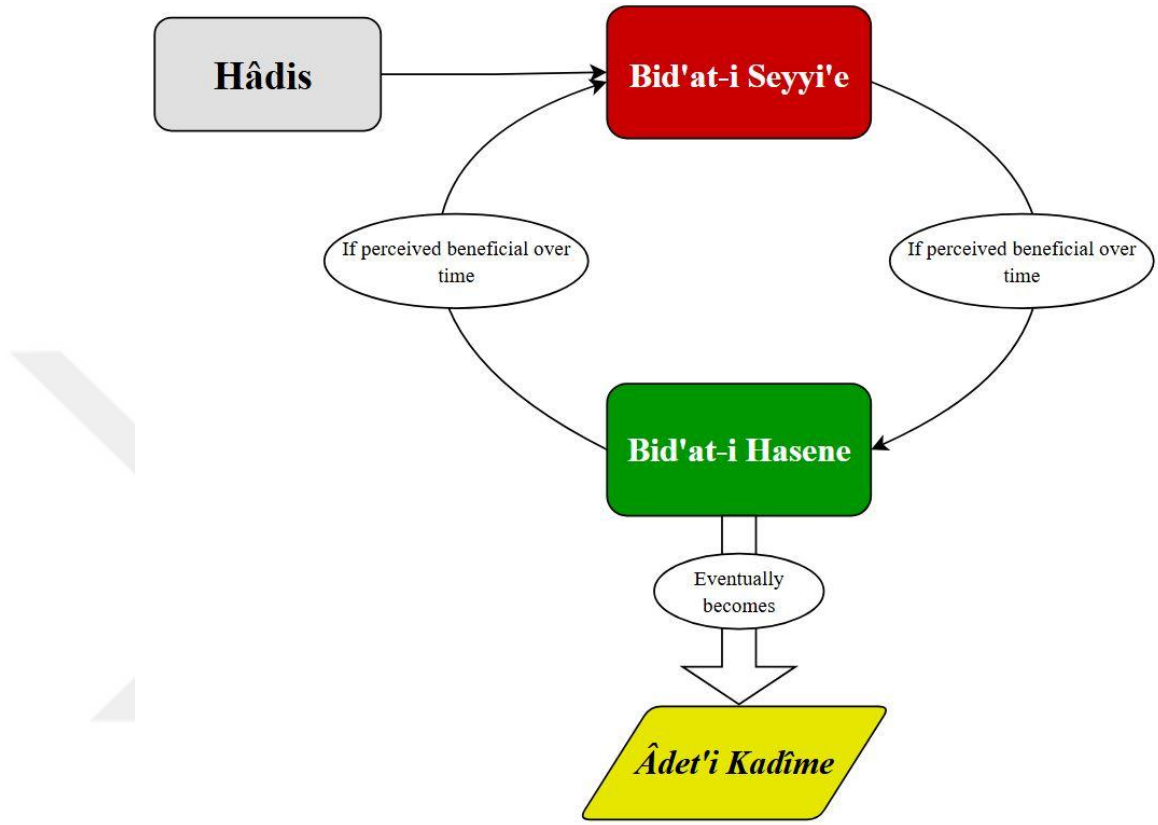


Figure 2 Evaluative trajectory of *hâdis* as it transforms—through communal acceptance—into *‘âdet-i kadîme*, via the intermediary category of *bid‘at-ı hasene*.

In this evaluative framework, as can be seen in Figure 2, when a *hâdis* emerged, it was typically rejected and classified as *bid‘at-ı seyyi‘e*, often prompting immediate efforts to suppress its adoption.³⁸⁹ However, if the practice was later perceived as beneficial to society and gained broad acceptance, it could gradually be reclassified as

³⁸⁸ Katib Chelebi, *The Balance of Truth*, 89.

³⁸⁹ Ergenç, “Continuity and Change ...,” 560.

bid'at-ı hasene and eventually absorbed into the body of *'âdet-i kadîme*.³⁹⁰ Conversely, even practices initially regarded as *bid'at-ı hasene* could lose their legitimacy over time if they failed to secure widespread acceptance or did not fulfill a recognized need.³⁹¹ Therefore, only *bid'at-ı hasene* held the potential to be gradually absorbed into the category of *'âdet-i kadîme*, while the *bid'at-ı seyyi'e* remained excluded from the normative structure of accepted custom.

In this sense, the evaluative distinction between *bid'at-ı hasene* and *bid'at-ı seyyi'e* not only reflected normative judgments but also carried temporal implications. Although not tied to precise chronology, these terms encode temporal meaning through their implicit alignment with notions of continuity and rupture. As Özer Ergenç observes, certain forms of *bid'at* emerged as extensions of existing customs, whereas others marked a clear departure, indicating a rupture in normative continuity.³⁹² Practices labeled as *bid'at-ı hasene* were often understood as extensions of the existing order—capable of being assimilated into the evolving corpus of *'âdet-i kadîme* over time. By contrast, *bid'at-ı seyyi'e* represented a break in that chain—a perceived deviation from the established framework of custom, and thus, a disruption to the temporal logic that underpinned normative legitimacy.

The practical implications of this typology can be observed in the way Ottoman legal codes negotiated between inherited obligations and evolving notions of justice. As the empire expanded into the Balkans, Ottoman authorities frequently encountered unfamiliar forms of compulsory labor (*angarya*) that had persisted from earlier feudal systems. These practices were typically classified as *hâdis* or *bid'at*—novel and potentially disruptive to the imperial legal order—and were thus subjected to

³⁹⁰ Ergenç, “Continuity and Change ...,” 560.

³⁹¹ Ergenç, “Continuity and Change ...,” 560.

³⁹² Ergenç, “Continuity and Change ...,” 560.

normative evaluation. While certain obligations were reinterpreted as *bid'at-ı hasene* and gradually absorbed into the corpus of *'âdet-i kadîme*, thereby representing historical continuity, others were condemned as *bid'at-ı seyyi'e* and abolished for violating imperial norms of justice and social equilibrium. Crucially, the classification of a practice as either continuity or rupture was not a neutral judgment of antiquity, but a political and legal decision driven by the overarching imperative to preserve *nizâm-ı âlem*.

Long-standing obligations such as building a granary or mowing hay were often regarded as *bid'at-ı hasene* and, over time, accepted in certain *sanjaks* as legitimate duties—validated through perceived continuity and incorporated into the legal framework as *'âdet-i kadîme*.³⁹³ In contrast, more burdensome demands—such as constructing entire houses or transporting goods over long distances—were rejected as *bid'at-ı seyyi'e*, marking clear points of rupture.³⁹⁴ In many cases, particularly in the Balkans, such practices were either abolished entirely or mitigated through legal restrictions.³⁹⁵ For example, although corvée labor continued to exist in various forms, the law explicitly prohibited the *sipahi* from compelling peasants to perform three days of forced labor on his land or to sow his crops. Similarly, while the *re'âyâ* was obliged to deliver the *aşar* (tithe tax) to the nearest market (*akreb pazar*), this obligation ceased if the journey exceeded a day's travel.³⁹⁶ These regulations were guided by a normative logic: to preserve what sustained social equilibrium and to eliminate what undermined it.

³⁹³ İnalçık, “Adâletnâmeler,” 67–68.

³⁹⁴ İnalçık, “Adâletnâmeler,” 67–68.

³⁹⁵ It should be noted that certain forms of compulsory labor inherited from the Balkan feudal order were later commuted into monetary payments by the Ottoman administration. See İnalçık, “Adâletnâmeler,” 67–68.

³⁹⁶ İnalçık, “Adâletnâmeler,” 68.

In addition to regulating existing custom, Ottoman legal discourse actively employed the language of *bid'at-ı seyyi'e* to delegitimize and eliminate exploitative innovations. These unjust practices—often uncovered during the *tahrîr* process—were abolished by *emr-i hümayûn* when deemed incompatible with *sharia*, *kânûn*, and the cadastral registers of the state.³⁹⁷ The 1545 *Pojega Kânûnnâmesi* exemplifies this legal logic by denouncing various forms of coercion, such as the extortion of pasture fees (*otluk-bahâ*) and the seizure of fodder, as *envâ'-ı zulm ve hayf*—manifestations of injustice that violated the rights of the *re'âyâ*.³⁹⁸ Similar prohibitions appeared in the *kânûnnâmes* of Sirem, Hatvan, and Lipve under Murad III (d. 1595), which not only abolished such feudal remnants but also mandated administrative accountability by requiring that violators be reported to higher authorities.³⁹⁹ The *Bitlis Kânûnnâme*, for example, repealed several taxes inherited from earlier dynasties, some of which had also appeared in the *Hasan Padişah Kânûnları*, while the 1551 *Kânûnnâme* of Hims ordered the elimination of specific *bid'at-ı seyyi'e* originating from the late Mamluk period.⁴⁰⁰ These interventions aimed not only to protect the *re'âyâ* from economic exploitation but also, more fundamentally, to reassert a normative order rooted in justice and aligned with the preservation of *nizâm-ı âlem*—achieved through a balance of selective legal continuity and principled rupture.

Beyond the *sancak kânûnnâmes*, the Ottoman state also relied on *'adâletnâmes* (imperial decrees of justice) as instruments to eliminate unlawful innovations and uphold *nizâm-ı âlem*. These decrees explicitly aimed to abolish *bid'ats* introduced in contradiction to *sharia*, *kânûn*, or imperial commands, with the stated goal of ensuring

³⁹⁷ İncik, “Adâletnâmeler,” 63.

³⁹⁸ Barkan, *XV ve XVI inci ...*, 301–302.

³⁹⁹ İncik, “Adâletnâmeler,” 60.

⁴⁰⁰ Guy Burak, “Between the Kânûn of Qāyṭbāy and Ottoman Yasaq: A Note on the Ottomans’ Dynastic Law,” *Journal of Islamic Studies* 26, no. 1 (2014): 10.

provincial security and the peace of both *re'âyâ* and *berâyâ*.⁴⁰¹ According to Halil İncılık, some *kânûnnâmes* even incorporated *'adâletnâme* texts, blurring the line between routine legal codification and extraordinary measures of justice.⁴⁰² Typically issued in response to injustices identified during the *tahrîr* process, these decrees functioned as corrective mechanisms that targeted exploitative practices at the provincial level. A compelling example appears in Article 19 of the *Niğbolu Kânûnnâmesi*, which reflects both the preservation of legitimate custom and the curbing of abuse. It reaffirms the ancient obligation for each married man to provide his *sipâhî* with one chicken and one *boğaç* during the harvest season (or a monetary equivalent), but simultaneously prohibits any additional demands, forced hospitality, or requisitioning by officials.⁴⁰³ The regulation not only stipulates that goods must be purchased at fair prices with the villagers' contentment, but also outlines accountability procedures for violators—mandating the intervention of *qadis* and escalation to the imperial court if necessary. This integration of normative tradition with centralized oversight illustrates how the Ottoman legal system balanced continuity with principled rupture—using the authority of the center to restrain local excesses while reaffirming temporally anchored, legitimate obligations in the pursuit of *nizâm-ı âlem*.

In conclusion, this section has demonstrated that in the early modern Ottoman world, the category of *'âdet-i kadîme* was not a static inheritance from the past, but a dynamic construct shaped through temporal evaluation and social negotiation. New

⁴⁰¹ İncılık, "Adâletnâmeler," 60. "... hilâf-ı şer' ve kanûn ve mugâyir-i emr-i hümayûn ibdâ' olunan bid'atleri bil-küllîye ref'edip vilâyetin emn ü âmânına ve re'âyâ ve berâyânın itmi'nânına erişmektir."

⁴⁰² İncılık, "Adâletnâmeler," 60.

⁴⁰³ İncılık, "Adâletnâmeler," 60. "Harman mevsiminde zikr olan vilâyetin kânûn-i kadîmesi üzere her müzevvecden sipâhîsine bir tavuk ile bir boğaç alına ve tavuğu olmayandan bir akçe alına ve gayri eyyâma tekrar tavuk ve boğaç alınmaya, sipâhî ve yahut subaşı ve sancak voyvodası köyüne varsa gücile atına yem ve otluk ve koyun ve tavuk talep eyleyip evden eve salgun salmıya, eğer ol köyde talep eylediği nesneden bulunursa akçesiyle ve rızalariyle satın ala. Bulunmaz ise elbette bulun deyü teklif eylemiye ve illa kadılar men' eylileyeler, men' ile memnu' olmazlar ise dergâh-i mu'allâya 'arz eylileyeler."

practices initially labeled as *hâdis* or *bid'at*—often regarded with suspicion or rejected as threats to the *nizâm-ı âlem*—could, over time, acquire legitimacy and be reclassified as part of the normative tradition. The typological distinction between *bid'at-ı hasene* and *bid'at-ı seyyi'e* reveals how this process was neither uniform nor guaranteed; only those innovations that aligned with communal utility, moral coherence, or institutional acceptance held the potential to be absorbed into the evolving body of *âdet*. Temporality here functioned not as mere chronology but as a framework of meaning—one that structured the inclusion or exclusion of novelty within Ottoman custom. In this way, tradition was not simply inherited; it was produced through continuous acts of interpretation, contestation, and selective remembrance. More broadly, this process of selective validation and elimination reveals that the temporality of custom in the Ottoman legal imagination was deeply intertwined with the pursuit of *nizâm-ı âlem*. Through mechanisms such as *kânûnnâmes*, *adâletnâmes*, and the *tahrîr* system, the state assessed whether a given practice contributed to stability or constituted a rupture that required its elimination. In doing so, it exercised not just retrospective judgment but proactive legal authorship—producing tradition by distinguishing between what deserved to persist and what needed to be erased. Thus, temporality functioned not merely as a reflection of historical longevity but as a sovereign tool of governance, through which the empire managed continuity, imposed rupture, and sustained order.

4.3 The Making of '*Âdet-i Kadîme*: Bureaucratic Recognition, Legal Codification, and Temporal Legitimacy in the Ottoman Empire

This chapter examines the multi-stage process through which local practices were transformed into '*âdet-i kadîme*—a normative category central to the Ottoman legal and political order. Rather than viewing custom as a static remnant of the past, the Ottoman administration actively produced tradition through bureaucratic procedures, legal codification, and rhetorical strategies of temporal framing. The section unfolds in three interrelated sub-sections. The first explores how the *tahrîr* system served as a mechanism for identifying and documenting longstanding local practices, transforming communal memory into administrative knowledge. The second sub-section examines the codification of these practices into *sancak kânûnnâmes*, where imperial authority formalized select customs within a legal framework that balanced central governance with regional precedent. The third and final sub-section investigates how the temporal depth of custom was constructed—often through references to dynastic rulers, ethnically marked labels, and vague historical markers—in order to legitimize selected practices as '*âdet-i kadîme*. Taken together, these stages reveal how Ottoman governance mobilized legal memory and temporality not only to incorporate provincial realities, but to shape them in accordance with the ideal of *nizâm-ı âlem*.

4.3.1 The *Tahrîr* System as a Tool of Legal-Administrative Integration

While the Ottoman *tahrîr* (cadastral survey) system has long been recognized as a crucial instrument of fiscal administration and land tenure regulation, its role in

the legal and normative consolidation of the empire has received comparatively less attention.⁴⁰⁴ Traditionally studied as a tool for recording population figures, revenue sources, and land allocation, the *tahrîr* process also functioned as a mechanism for identifying, documenting, and selectively incorporating local practices into the

⁴⁰⁴ In Ottoman historiography, numerous studies have examined the form and structure of *tahrîr* registers, while many others have utilized these records to conduct local historical research. Although it is not possible to list all of these works here, a brief mention of a few notable examples will be appropriate. See, Ömer Lütfi Barkan, “Türk İktisat ve Mâliye Tarihi İçin Kaynaklar: Türkiye’de İmparatorluk Devirlerinin Büyük Nüfus ve Arazi Tahrirleri ve Hakana Mahsus İstatistik Defterleri I,” *İFM* 2, no. 1–2 (1940–41): 20–59, 214–247; Ömer Lütfi Barkan, “Tarihi Demografi Araştırmaları ve Osmanlı Tarihi,” *Türkiyat Mecmuası* 10 (1953): 1–26; Ömer Lütfi Barkan and Enver Meriçli, *Hüdavendigar Livası Tahrir Defterleri I* (Ankara: Türk Tarih Kurumu Yayınları, 1988); Halil İnalcık, *835 Tarihli Suret-i Defter-i Arvanid* (Ankara: Türk Tarih Kurumu Yayınları, 1987); Nejat Göyünç, *XVI. Yüzyılda Mardin Sancağı* (İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, 1969); Özer Ergenç, “1580–1596 Yılları Arasında Ankara ve Konya Şehirlerinin Mukayeseli İncelemesi Yoluyla Osmanlı Şehirlerinin Kurumları ve Sosyo-Ekonomik Yapısı Üzerine Bir Deneme” (Ph.D. thesis, Ankara Üniversitesi, 1974); Özer Ergenç, *XVI. Yüzyılda Ankara ve Konya* (Ankara: Ankara Enstitüsü Vakfı Yayınları, 1995); Özer Ergenç, *XVI. Yüzyılın Sonlarında Bursa* (Ankara: Türk Tarih Kurumu Yayınları, 2006); Bahaeddin Yediyıldız, *Ordu Kazası Sosyal Tarihi (1455–1613)* (Ankara: Kültür ve Turizm Bakanlığı Yayınları, 1985); Heath W. Lowry, *Trabzon Şehrinin İslamlaşma ve Türkleşmesi 1461–1583* (İstanbul: Boğaziçi Üniversitesi Yayınları, 1981); Mehmet Ali Ünal, *XVI. Yüzyılda Harput Sancağı (1518–1566)* (Ankara: Türk Tarih Kurumu Yayınları, 1989); Yunus Koç, *XVI. Yüzyılda Bir Osmanlı Sancağının İskan ve Nüfus Yapısı* (Ankara: Kültür Bakanlığı Yayınları, 1989); Feridun M. Emecen, *XVI. Asırda Manisa Kazası* (Ankara: Türk Tarih Kurumu Yayınları, 1989); Mehmet Öz, *XV–XVI. Yüzyıllarda Çanık Sancağı* (Ankara: Türk Tarih Kurumu Yayınları, 1991); Özer Ergenç, “Şehir Tarihi Araştırmaları Hakkında Bazı Düşünceler,” in *Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet*, (İstanbul: Tarih Vakfı Yurt Yayınları, 2012), 6–23; Mehmet Öz, “Tahrir Defterlerinin Osmanlı Tarihi Araştırmalarında Kullanılması Hakkında Bazı Düşünceler,” *Vakıflar Dergisi* 22 (1991): 429–39; Mehmet Öz, “Tahrir Defterlerindeki Sayısal Veriler,” in *Osmanlı Devleti’nde Bilgi ve İstatistik*, ed. Halil İnalcık and Şevket Pamuk (Ankara: Devlet İstatistik Enstitüsü, 2000), 17; Kemal Çiçek, “Osmanlı Tahrir Defterlerinin Kullanımında Görülen Bazı Problemler ve Yöntem Arayışları,” *Türk Dünyası Araştırmaları* 97 (1995): 93–111; Feridun Emecen, “Sosyal Tarih Kaynağı Olarak Osmanlı Tahrir Defterleri,” in *Tarih ve Sosyoloji Semineri, Bildiriler* (1990): 142–56; Fatma Acun, “Osmanlı Tarihi Araştırmalarının Genişleyen Sınırları: Defteroloji,” *Türk Kültürü İncelemeleri Dergisi* 1 (1999): 319–32; Erhan Afyoncu, “Türkiye’de Tahrir Defterlerine Dayalı Olarak Hazırlanmış Çalışmalar Hakkında Bazı Görüşler,” *Türkiye Araştırmaları Literatür Dergisi* 11 (2003): 267–86; Ahmet Güneş, “Osmanlı Tahrir Defterleri ve Bunlara Dayalı İncelemelere İlişkin Bazı Önemli Konu ve Meseleler,” *Türk Dünyası Araştırmaları Dergisi* 150 (2004): 165–84; Suraiya Faroqhi, *Osmanlı Şehirleri ve Kırsal Hayatı*, trans. Emine Sonnur Özcan (Ankara: Doğu Batı Yayınları, 2006); Yunus Koç, “Ömer Lütfi Barkan’ın Tarihsel Demografi Çalışmalarına Katkısı ve Klasik Dönem Osmanlı Nüfus Tarihinin Sorunları,” *Bilig* 65 (2013): 187. In addition to the aforementioned studies, it is important to acknowledge that numerous more recent works have also examined *tahrîr* registers. With this in mind, it would be appropriate to mention a few works by foreign historians who have utilized *tahrîr* registers in their research on an international scale. See, M. A. Cook, *Population Pressure in Rural Anatolia 1450–1600* (London: Oxford University Press, 1972); R. C. Jennings, “Urban Population in Anatolia in the Sixteenth Century: A Study of Kayseri, Karaman, Amasya, Trabzon, and Erzurum,” *International Journal of Middle East Studies* 7, no. 1 (1976): 21–57; W. D. Hütteroth, “Methods of Historical Geography: Examples from Southeastern Turkey, Syria, and Iraq,” in *V. Milletlerarası Türkiye Sosyal ve İktisat Tarihi Kongresi Tebliğler* (1989): 487–97; Leila Erder and Suraiya Faroqhi, “Population Rise and Fall in Anatolia 1550–1620,” *Middle Eastern Studies* 15, no. 3 (1979): 322–45; Halil İnalcık, Evgeni Radushev and Uğur Altuğ, *Fatih Sultan Mehmed Döneminde Tuna Boyunda Osmanlı Düzeni: Niğbolu, Vidin ve Braniçeva Tahrir Defterleri: Metin ve İndeks* (Budapest: HAS Research Centre for the Humanities, 2018).

imperial legal framework. This process enabled local practices to be recognized as *‘âdet-i kadîme*, turning them into foundational tools for preserving socio-political order and sustaining the broader ideal of *nizâm-ı ‘âlem*. This section explores, in practice, how the Ottoman *tahrîr* system functioned not merely as a tax-assessment procedure, but as a legal-bureaucratic apparatus through which local practices—rooted in communal memory and pre-Ottoman traditions—were identified, institutionalized, and transformed into enforceable legal standards under the framework of customary law. It provides concrete insight into how a local practice was elevated to the status of *‘âdet-i kadîme* in the Ottoman Empire, motivated by the imperative to safeguard the *nizâm-ı ‘âlem*.

The *tahrîr* was a comprehensive cadastral survey system employed by the Ottoman state to collect detailed up-to-date information on land ownership, land-use patterns, sources of revenue, and the demographic and social characteristics of both the taxable and exempt male populations (excluding women and children)—including their marital status, occupations, and religious affiliations—within a given region of the empire at a particular point in time.⁴⁰⁵ The process was typically initiated under specific political or fiscal circumstances—most commonly following the conquest of new territories, but also within existing provinces in response to events such as the succession of a new sultan, major demographic shifts, outbreaks of plague, or significant changes in taxation. Through *tahrîr*, Ottomans facilitated the integration of

⁴⁰⁵ Halil İnalçık, *Osmanlı İmparatorluğu’nun Ekonomik ve Sosyal Tarihi I 1300-1600*, trans. Halil Berktaş (İstanbul: Türkiye İş Bankası Yayınları, 2016), 155; Ergenç, “Şehir Tarihi Araştırmaları Hakkında Bazı Düşünceler,” in *Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet*, 18; Mehmet Öz, “Tahrir,” *TDV İslâm Ansiklopedisi*, accessed March 11, 2025, <https://islamansiklopedisi.org.tr/tahrir>; Erhan Afyoncu, “Osmanlı Devletinde Tahrir Sistemi,” in *Osmanlı*, vol. 6, ed. Güler Eren (Ankara: Yeni Türkiye Yayınları, 2014), 311.

newly conquered territories, ensuring a smooth administrative and fiscal transition while aligning local governance with imperial policies.⁴⁰⁶

Once commissioned, a centrally appointed *tahrîr emîni* (imperial surveyor)—also known as “*il yazıcısı*” or “*muhrîr-i memleket*”—was dispatched to the designated region. The *tahrîr emîni* was usually selected from among high-ranking members of the Ottoman administration, including district governors, qadis, and *müderreses*. Notable figures who held this position include Timurtaş Bey, Umur Bey, Mihaloğlu Ali Bey, and Baltaoğlu Süleyman Bey in the fifteenth century, as well as Nişancı Celâlzâde Mustafa and Trabzon Sancakbeyi Ömer Bey in the 16th century.⁴⁰⁷ Moreover, he was typically accompanied by a scribe and supported by local officials such as the *qadi*, *sipahi*, and respected elders (*ihtiyâr, pîr, müsin*).⁴⁰⁸ These *tahrîr* commissions were not *ad hoc* bodies, but rather carefully composed administrative teams that reflected the multi-dimensional character of the survey process: the *qadi* provided legal oversight, the scribe ensured accurate record-keeping, the *sipahi* assisted in the classification of lands, and local elders contributed local knowledge and served as safeguards against arbitrary or inaccurate entries. This institutional composition reflects the broader objective of the *tahrîr*: to ensure accuracy, procedural fairness, and administrative precision in documenting regional realities.

Notably, the process was conceived not only as a fiscal measure, but also as an oversight mechanism designed to prevent potential abuses and arbitrary impositions by provincial authorities, while safeguarding the rights of the *re'âyâ*.⁴⁰⁹ As Halil İnalçık emphasizes, every line of the *tahrîr* registers reflects two foundational concerns

⁴⁰⁶ Koç, “Early Ottoman Customary Law...,” 85; Afyoncu, “Osmanlı Devletinde Tahrir Sistemi,” 313.

⁴⁰⁷ Öz, “Tahrir.”

⁴⁰⁸ Öz, *XV-XVI. Yüzyıllarda Canik Sancağı*, 6; İnalçık *Osmanlı İmparatorluğu'nun Ekonomik ...*, 158; Afyoncu, “Osmanlı Devletinde Tahrir Sistemi,” 313; Öz, “Tahrir.”

⁴⁰⁹ İnalçık, *Osmanlı İmparatorluğu'nun Ekonomik ...*, 155–56.

of the Ottoman state: ensuring an equitable distribution of fiscal burdens and maintaining administrative clarity.⁴¹⁰ The principle that “not a single person nor a single unit of revenue shall be excluded from the register” (*efrâd-ı nâstan bir ferd ve ebvâb-ı mahsûlâtta bir habbe cüz’î ve küllî hâric-ez-defter nesne kalmayıp*) underscores the comprehensive scope and regulatory ambition of the *tahrîr* system.⁴¹¹ Through registration in the *tahrîr* records, both individuals and their lands became officially recognized within the Ottoman administrative system, ensuring that their obligations, entitlements, and property rights were formally documented.⁴¹²

Beyond its fiscal and administrative functions, the *tahrîr* process also served as a mechanism for documenting pre-Ottoman governance traditions, administrative practices, fiscal arrangements, and long-standing local customs (*‘örf* and *‘âdet*) specific to each region.⁴¹³ The integration of such customs into the Ottoman legal tradition played a crucial role in shaping the distinctive identity of the imperial legal system. As the empire expanded across culturally diverse territories throughout the early modern period, Ottoman authorities encountered a wide array of regional norms and practices that structured communal life and its administration.⁴¹⁴ Rather than imposing rigid and unfamiliar regulations that disregarded these traditions, the imperial administration adopted a selective and pragmatic approach, incorporating certain local customs into the official legal framework.⁴¹⁵ This process was not merely

⁴¹⁰ İnalçık, *Osmanlı İmparatorluğu’nun Ekonomik ...*, 156.

⁴¹¹ Öz, “Tahrir;” İnalçık, *Osmanlı İmparatorluğu’nun Ekonomik ...*, 155.

⁴¹² İnalçık, *Osmanlı İmparatorluğu’nun Ekonomik ...*, 158–59.

⁴¹³ Ahmet Özcan, “Uzun Hasan Kanunları ve Osmanlı Dönemine yansımaları,” *OTAM Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* 29, no. 29 (2011): 174; İnalçık, *Osmanlı İmparatorluğu’nun Ekonomik ...*, 160.

⁴¹⁴ Koç, “Early Ottoman Customary Law ...,” 75.

⁴¹⁵ Koç, “Early Ottoman Customary Law ...,” 85.

symbolic; it reflected the state's recognition of the socio-political role of custom in securing harmony, continuity, and legitimacy at the provincial level.

At the beginning of a typical sixteenth-century *tahrîr* register, a *sancak kânûnnâmesi* was often appended, outlining the administrative, fiscal, and legal provisions governing the district.⁴¹⁶ As Ömer Lütfi Barkan notes, each *sancak kânûnnâmesi* represented the formal codification of practices that had been observed “since time immemorial” (“*kadîmden berü*”) within the district.⁴¹⁷ These codes combined regionally rooted local customary practices with regulations drawn from imperial norms (*Kânûn-ı Osmânî*), ensuring both local adaptability and centralized coherence in governance. This legal integration was not merely technical—it was fundamentally ideological. By embedding long-standing practices within the structure of state-sanctioned law, the Ottoman administration sought to produce a sense of historical continuity and normative legitimacy. The inclusion of *âdet-i kadîme* in the *kânûnnâmeler* functioned as a mechanism for preserving social equilibrium, securing compliance, and reinforcing the imperial vision of *nizâm-ı âlem*—the just and harmonious order of the world. In this framework, social cohesion was not achieved through the imposition of uniform rules alone, but through the recognition of locally rooted norms that had proven resilient across generations. The state's decision to formalize these customs through the *tahrîr* and embed them in provincial codes reveals a conscious strategy to balance imperial authority with local continuity. In doing so,

⁴¹⁶ According to İnalçık, the practice of including separate *kânûnnâmes* at the beginning of detailed cadastral surveys (*mufasssal tahrîr defterleri*) for each *sancak*, outlining the legal provisions (*fermans*) in effect in that region, dates back to the reign of Bayezid II. Halil İnalçık, “Kânûnnâme,” in *The Encyclopaedia of Islam*, 2nd ed., vol. 4, ed. E. van Donzel, B. Lewis, and Ch. Pellat (Leiden, The Netherlands: Brill, 1997), 563–564.

⁴¹⁷ Özer Ergenç, “Halil İnalçık Neden “Büyük”?”, in *Osmanlı Tarihi Yazıları: Şehir, Toplum, Devlet*, 57; Ömer L. Barkan, “Akkoyunlu Hükümdarı Uzun Hasan Bey’e ait Kanunlar,” *Tarih Vesikaları* 1, no. 2 (1941): 91–92.

‘âdet-i kadîme operated as both a legal category and a political technology—one that aligned communal memory with the administrative logic of the empire.

The recognition of certain customs as *‘âdet-i kadîme* was guided by several key criteria: the custom’s widespread acceptance within a given community, its continuous practice over time, its compatibility with Islamic law and existing imperial regulations, and its perceived contribution to social order, administrative stability, and the ideal of *nizâm-ı ‘âlem*. Practices—often inherited from earlier imperial traditions—that fulfilled these conditions were identified and formally designated as *‘âdet-i kadîme* and recorded by *tahrîr* officials during provincial cadastral surveys. For example, the use of phrases such as “*ber müceb-i Kânûn-ı ‘Osmânî*” at the beginning of many *sancak kânûnnâmes* indicates that these codifications had been sanctioned in accordance with the empire’s customary legal framework. Moreover, to assess the historical continuity of such practices, surveyors engaged with respected elders (*pîr, ihtiyâr, müsin*) who were familiar with local conditions and could recall longstanding customs, previous tax arrangements, and landholding patterns. These oral testimonies played a key role in verifying the legitimacy of locally observed norms and determining which practices merited formal recognition. As a result, the *tahrîr* functioned as a bridge between communal memory and imperial legality, transforming select customary practices into enforceable norms of customary law.

A clear example of this process can be found in the 1526 *Kânûnnâme* of Sofia (H. 932). In this document, the tax known as *‘âdet-i harman*—a levy collected during the threshing season—was retained in the new provincial fiscal order.⁴¹⁸ What legitimized its inclusion was not merely its utility, but the testimony of local elders

⁴¹⁸ Barkan, *XV ve XVI inci ...*, 252, within the *Kânûnnâme* of Sofia.

(*pîr-i dâna*, i.e., those regarded as the most knowledgeable and experienced figures within the community) and trusted community figures (*mu'temed kimesneler*) who stated that the tax had been collected “even when the land was under unbelief” (“*Bu vilâyet dahi küfr ü delâlet içindeyken re'âyâdan 'âdet-i harman alınageldiği bizim ma'lûmumuz olmuştur.*”).⁴¹⁹ This phrase, recorded into *tahrîr* register, invoked a continuity that predated Ottoman rule and aligned the practice with the ideal of *'âdet-i kadîme*. By acknowledging its persistence across political regimes, the *kânûnnâme* did not just preserve a local fiscal arrangement—it transformed it into a state-sanctioned component of the legal order. It shows that the *tahrîr* process and *kânûnnâme* production did not merely record existing customs but actively reshaped them into codified legal norms—yet this transformation remained incomplete without formal ratification by the imperial center.

However, such recognition alone did not confer legal authority. Once the fieldwork of the *tahrîr* was completed, the collected data were compiled into draft registers (*müsvedde defterler*) and sent to the imperial center for review.⁴²⁰ These recorded local customs only attained normative force and became part of the imperial legal system upon formal ratification by the sultan. In line with this, the draft records underwent careful examination, revision, and standardization before being finalized into two official versions: the *mufassal defter* (detailed register), which included comprehensive fiscal and administrative data, and the *icmâl defter* (summary register), used primarily for bureaucratic reference. Both versions required the approval of the *nişancı* (chief chancellor) and ultimately received the sultan's ratification, marked by the imperial *tuğra* (cipher). Through formulas such as “*makbûl-i hümayûnum*

⁴¹⁹ Barkan, *XV ve XVI inci ...*, 252.

⁴²⁰ İnalçık, *Osmanlı İmparatorluğu'nun Ekonomik ...*, 161.

olmuştur” (“it has been accepted by my imperial authority”) and “*min ba’d fehyâ-yı şerîfeyle amel olunmak emr ve fermân eyledim*” (“henceforth, I have decreed and commanded that it be enforced through my noble decree”), the state signaled that these practices had not only been acknowledged by the sultan but were now enforceable as part of imperial law.⁴²¹ In some cases, *kanûnnâmes* included additional phrases such as “*huzûr-ı şerîflerinde kırâ’at olundu*” (“it was recited in his noble presence”) and “*düstûrî’l-amel olub defterhâne-i âmirede hıfz olunmak babında fermân ...*” (“a decree was issued for it to serve as a guideline and be preserved in the imperial registry”), further demonstrating that the incorporation of long-standing customs into the legal system required meticulous scrutiny and explicit validation through imperial authority.⁴²²

This process was central to the Ottoman legal-administrative order, ensuring that customary practices were not merely tolerated but institutionalized through state authority. Once endorsed, one copy of the register was sent to the relevant provincial governor (*beylerbeyi*) for practical implementation, while the other was archived in the imperial chancery (*defterhâne*) as part of the official state record. In this way, the *tahrîr* not only produced an administrative snapshot of provincial realities but also functioned as a medium through which social practices—once orally transmitted and locally maintained—were transformed into normative and enforceable components of ‘*örfî hukûk*. Practices that completed this process were incorporated into the legal framework as ‘*âdet-i kadîme*, transitioning from long-standing communal usage to codified and binding legal norms. This transformation distinguished ‘*âdet-i kadîme*

⁴²¹ Barkan, “Türkiye’de Sultanların ...,” 729.

⁴²² Barkan, “Türkiye’de Sultanların ...,” 729.

from ordinary local customs, elevating it to a state-recognized legal category within the Ottoman governance structure.

4.3.2 Legal Codification and the Imperial Reframing of *‘Âdet-i Kadîme*

While section 4.3.1 explores how local customary practices were identified, recorded, and legitimized through the administrative mechanism of *tahrîr*, section 4.3.2 turns to a subsequent and more assertive phase in the construction of *‘âdet-i kadîme*: the legal codification of such practices through *sancak kânûnnâmes*. The key distinction between the two lies in the nature of imperial engagement. The former reflects the empire’s receptivity to existing norms—its attempt to map and integrate local practices without substantially altering them. In contrast, the latter highlights the state’s capacity to reshape, standardize, and reframe those practices within a centralized legal structure through *sancak kânûnnâmes*. This shift from documentation to formal incorporation reflects a deeper logic of legal hybridization, through which the Ottoman state transformed inherited customary legal norms into instruments of imperial governance. Across the empire’s diverse frontiers—from Rumelia and Egypt to Eastern Anatolia and Arab provinces—Ottoman administrators selectively adapted and institutionalized pre-Ottoman legal traditions, integrating Byzantine, Mamluk, Slavic, and Turco-Mongol elements into the Ottoman legal order—reframing them as *‘âdet-i kadîme*—without erasing their local roots. Rather than merely signaling a policy of tolerance or decentralized autonomy, this process was a strategy to construct *nizâm-ı ‘âlem*—the ideal of cosmic and social order—by reconfiguring regional

precedent into an imperial framework. In this context, *‘âdet-i kadîme* functioned not merely as a legitimizing label, but as a flexible legal and discursive tool that allowed the state to assert control while preserving the appearance of historical continuity and communal legitimacy.

The 1524–25 *Kânûnnâme* of Egypt provides a compelling example of how the Ottoman Empire engaged in legal hybridization by selectively incorporating pre-Ottoman customary norms into its provincial codification efforts. Following the conquest of Egypt in 1517, Grand Vizier İbrahim Pasha (d. 1536) spearheaded a reorganization of the province’s administration by initiating a thorough examination of existing Mamluk-era regulations.⁴²³ As Abdurrahman Atçıl emphasizes, this was not a wholesale rejection of earlier legal systems but a process of careful selection: long-standing legal customs were retained, while later innovations deemed incompatible with Ottoman principles were removed.⁴²⁴ The resulting *kânûnnâme* introduced new regulations—such as those concerning the status of janissaries transferred to Egypt—while simultaneously formalizing existing practices, including taxation rates (such as the customs duties set during the reign of Mamluk Sultan Qaytbay [d. 1496]), as well as the administrative rights of Mamluk military elites (*tâ’ife-i Çerâkise*) and Arab tribal leaders (*meşâyih-i Arâb*), by aligning them with the legal and administrative principles of the *Kanûn-ı Osmânî*.⁴²⁵ In doing so, the Ottoman state established a legal

⁴²³ Barkan, “Türkiye’de Sultanların ...,” 730; İnalçık, “Adâletnâmeler,” 61.

⁴²⁴ Abdurrahman Atçıl, “Memlûkler’den Osmanlılar’a Geçişte Mısır’da Adli Teşkilât ve Hukuk (922–931/1517–1525),” *İslam Araştırmaları Dergisi*, no. 38 (December 2017): 90.

⁴²⁵ Atçıl, “Memlûkler’den Osmanlılar’a ...,” 112; Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 638. For the laws regulating the status of Janissaries arriving in Egypt from Anatolia and Rumelia, as well as the status of Egyptian and Arab soldiers according to Ottoman customary law in the *Mısır Kânûnnâmesi*, see Barkan, *XV ve XVI inci ...*, 355–87; Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri*, vol. 6, 106–109, 112–14. Similarly, Zeki Arıkan’s study on the *Divriği Sancağı Kânûnnâmesi* demonstrates that certain individuals who had held *sipâhî* and *sipâhîzâde* (son of a *sipâhî*) status during the Mamluk period continued to retain their rights under Ottoman rule. This continuity is evidenced by statements such as: “*Sipâhîler idüklerine... Sultan-ı Mısır’dan menşurları... var; Sipahizade ba menşur-ı Sultan-ı Mısır; Köhne sipâhî idüğüne elinde Sultan-ı Mısır’dan menşuru var;*” which confirm that official appointments (*menşûr*) issued by the Sultan of Egypt were still recognized. Arıkan’s findings suggest

framework that fused imperial authority with localized precedent, ensuring both administrative control and a sense of historical continuity.⁴²⁶ This process of legal hybridization did not rupture existing traditions, but strategically reconfigured them to serve the broader objective of *nizâm-ı âlem* grounded in the disciplined preservation of inherited local memory.

This strategic use of selective adaptation is not limited to Egypt. A similar logic of integration guided Ottoman legal practices in the Balkans, where the empire inherited a rich tapestry of fiscal and administrative norms from former Christian polities. The *sancak kânûnnâmes* of Rumelia often codified practices that had long been in place under Byzantine, Serbian, and Bulgarian rule.⁴²⁷ One notable example is the *baština* (Ott. *baştina*, Sl.: “inheritance”), a form of hereditary landholding that continued to shape land tenure in the post-conquest period.⁴²⁸ Likewise, the *ispençe*—a head tax originally imposed on non-Muslims during the reign of Stefan Dušan of Serbia (r. 1331–1346)—was maintained and integrated into the Ottoman tax system.⁴²⁹ Obligations concerning natural resources—such as levies on hay, wood, and grain—were likewise retained.⁴³⁰ For instance, in some provinces, peasants were required to deliver specific quantities of wheat and barley annually—an obligation that predated Ottoman control.⁴³¹ Similarly, taxes on wine production, including the barrel tax (*obručuna*) and “*monopolya âdeti*,” reflect the continuation of local economic

that, at least in certain cases, the Ottoman administration upheld pre-existing entitlements rather than completely dismantling Mamluk-era military and administrative structures. See Zeki Arıkan, “Divriği Sancağı Kanunnameleri,” *Belleten* 51, no. 198 (1987): 762–63.

⁴²⁶ Atçıl, “Memlûkler’den Osmanlılar’a ...,” 112.

⁴²⁷ Koç, “Early Ottoman Customary Law ...,” 92–96.

⁴²⁸ İnalçık, *Adâletnâmeler*, 53.

⁴²⁹ Halil İnalçık, “İspendje,” in *The Encyclopaedia of Islam*, 2nd ed., vol. 4, ed. E. van Donzel, B. Lewis, and Ch. Pellat (Leiden, The Netherlands: Brill, 1997), 211; İnalçık, “Osmanlı Hukukuna ...,” 120; İnalçık, “Adâletnâmeler,” 59; Koç, “Early Ottoman Customary Law ...,” 87.

⁴³⁰ İnalçık, “*Qânûnnâme*,” 564.

⁴³¹ İnalçık, “*Qânûnnâme*,” 564.

structures.⁴³² Rather than eradicating these earlier practices, Ottoman officials codified them under the rubric of *‘âdet-i kadîme* and incorporated them into provincial law codes. This pragmatic approach allowed the empire to secure fiscal regularity while minimizing local resistance, reinforcing the perception that Ottoman rule respected—and even protected—long-standing local traditions.⁴³³ More than a gesture of tolerance, this codification strategy served to align inherited Christian norms with the structure of the *Kânûn-ı Osmânî*, embedding regional precedent within a coherent imperial vision of *nizâm-ı ‘âlem*—a legal and political order grounded in strategic continuity through *‘âdet-i kadîme*.

Despite such evidence of structured integration, some scholars have argued that the Ottoman legal system granted considerable autonomy to various social collectivities, allowing them to manage their internal affairs and resolve disputes according to their own customary practices.⁴³⁴ However, such interpretations risk overstating the degree of local autonomy while underestimating the central role of legal codification in integrating regional practices into the imperial framework, concerning justice and order. While certain communities were indeed permitted to regulate internal matters within specific limits, this should not be mistaken for a general principle of legal autonomy. In this sense, the incorporation of local customs into *sancak kânûnnâmes* was not a passive concession of tolerance but an active mechanism for maintaining administrative coherence and social stability. These practices were legitimized not because they expressed communal will *per se*, but because they could be framed within the imperial ideal of *nizâm-ı ‘âlem*. Through codification, local norms were reframed as *‘âdet-i kadîme*, acquiring temporal depth

⁴³² İnalcık, “Kânûnnâme,” 564.

⁴³³ Murat Dağlı, “The Limits of Ottoman Pragmatism,” *History and Theory* 52, no. 2 (2013): 198.

⁴³⁴ Akarlı, “The Ruler and Law Making ...,” 102.

and legal authority that simultaneously reinforced state control and communal continuity.

At the same time, the flexibility of the Ottoman administration allowed for pragmatic accommodations, particularly in the frontier regions (*ucât*), where the socio-political environment often necessitated adaptive governance, flexible jurisdiction, and negotiated taxation regimes.⁴³⁵ In the early Ottoman period, local beys held significant judicial and administrative authority, and the legal order in such regions evolved not solely through top-down imposition but through negotiation with local power structures.⁴³⁶ As a result, the development of *‘âdet* emerged from a dynamic interplay between imperial imperatives and provincial realities. Yet even this locally driven evolution of custom ultimately contributed to the broader goal of imperial order, as practices rooted in necessity and local governance were reclassified and stabilized as *‘âdet-i kadîme*, reinforcing a sense of historical continuity within the framework of Ottoman rule.

In sum, the legal codification of local practices into *sancak kânûnnâmes* was neither a passive act of documentation nor a simple gesture of imperial tolerance. Rather, it constituted a strategic process through which the Ottoman state reframed diverse regional customs as *‘âdet-i kadîme*, thereby grounding imperial authority in the language of continuity. By selectively incorporating pre-Ottoman traditions and aligning them with the principles of the *Kânûn-ı ‘Osmânî*, the state constructed a normative order that combined administrative coherence with localized legitimacy.

⁴³⁵ Dağlı, “The Limits ...,” 198; Gabor Agoston, “A Flexible Empire Authority and its Limits on the Ottoman Frontiers,” *International Journal of Turkish Studies* 9, no.1–2 (1993): 27; Koç, “Erken Dönem Osmanlı Hukuku ...,” 120.

⁴³⁶ Dağlı, “The Limits ...,” 199. Karen Barkey also draws attention to the multidimensional nature of negotiation in the Ottoman Empire. See Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (Cambridge, UK: Cambridge University Press, 2008), 56–57.

These codified customs acquired temporal depth and legal force not simply because they were old, but because they were presented as integral to the preservation of *nizâm-ı âlem*. As the next section will explore, this construction of continuity was not only achieved through formal legal incorporation, but also through rhetorical strategies that embedded historical memory—whether dynastic, communal, or ethnic—into the very fabric of Ottoman legal texts.

4.3.3 Reconfiguring the Past: Imperial Codification, Legal Memory, and the Normative Power of *‘Âdet-i Kadîme*

While the previous section examined how local customs were formally codified into *sancak kânûnnâmes* as *‘âdet-i kadîme*, this section turns to a more nuanced layer of that process: how the Ottoman legal system engaged with regional legal memory by incorporating references to earlier dynastic authorities and regionally or ethnically defined customs into the codification of local practices. These references—whether invoking rulers such as *Kânûn-i Hasan Pâdişâh* (the Law of Sultan Hasan), *Kayıtbay ka‘idesi* (the Rule of Qaytbay), or identifying practices as *Ekrâd ‘âdeti* (Kurdish custom) and *Zülkadirli ‘âdeti* (Dulkadirid custom)—were not merely documented, but embedded as meaningful elements within the legal texts. While some scholars have interpreted these references as part of a deliberate imperial strategy to legitimize Ottoman authority through appeals to dynastic precedent, this section argues that many of them likely originated in communal memory and were expressed through local testimony during the *tahrîr* process. Regardless of whether

they reflected imperial initiative or arose from local knowledge, these references fulfilled a shared function: they affirmed certain practices as *‘âdet-i kadîme* by signaling their temporal depth and broad social recognition, thereby grounding their legitimacy in continuity. By evoking a sense of antiquity and historical persistence, they reinforced the normative authority of these practices and contributed to the preservation of *nizâm-ı ‘âlem*.

In certain regions, legal traditions attributed to earlier rulers—such as those of Uzun Hasan of the Akkoyunlu (d. 1478), Sultan Qaytbay of the Mamluks, and Alaüddevle Bozkurt Beg of the Dulkadirids (d. 1515)—were not abolished following conquest, but instead incorporated into *sancak kânûnnâmes* with their original terminology and institutional forms largely intact.⁴³⁷ As Ömer Lütfi Barkan noted, while some provisions in these codes were described as stemming from ancient custom (*kadîm gelenekler*), others were explicitly attributed to specific pre-Ottoman rulers.⁴³⁸ For example, in the eastern provinces of Erzurum, Erzincan, Bayburt, Bitlis, Urfa, Diyarbakır, and Mardin, legal corpora associated with Uzun Hasan—especially labeled as “*Düstûr-ı Hasan Pâdişâh*”—were formally retained in Ottoman *sancak kânûnnâmes*.⁴³⁹ Several of these codes include phrases such as “*ber müceb-i kânûn-i Hasan Pâdişâh*” (“in accordance with the law of Hasan Pâdişâh”), directly tying particular fiscal and judicial regulations to remembered dynastic precedent.⁴⁴⁰

⁴³⁷ Arıkan, “Divriği Sancağı ...,” 763; Zeki Arıkan, “1518 (924) Tarihli Çemişgezek Livası Kanunnamesi,” *Tarih Dergisi*, no. 34 (June 2011): 103–104; Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 638; Barkan, *XV ve XVI inci* ..., LXIV.

⁴³⁸ Barkan, “Akkoyunlu Hükümdarı ...,” 92.

⁴³⁹ Özcan, “Uzun Hasan Kanunları ...,” 181; Barkan, “Akkoyunlu Hükümdarı ...,” 92–93; Arıkan, “Divriği Sancağı ...,” 763; Arıkan, “1518 (924) Tarihli Çemişgezek ...,” 104–105, İnalçık, “Kânûnnâme,” 562; Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 638; Burak, “Between the Kânûn ...,” 9.

⁴⁴⁰ Barkan, “Akkoyunlu Hükümdarı ...,” 96; Barkan, *XV ve XVI inci* ..., 148, within the *Kânûnnâme* of Diyarbekir; see also the *Kânûnnâme* of Mardin for details on *bâc* and *tamga* taxes. Barkan, *XV ve XVI inci* ..., 159.

A comparable pattern of legal incorporation is evident in Egypt, Syria, Damascus, Mersin, and Cilicia, where administrative and fiscal regulations from the Mamluk period—particularly those associated with Sultan Qaytbay—were preserved and integrated into the Ottoman legal framework.⁴⁴¹ The *Sis Kânûnnâmesi* of 1519, for instance, opens with the heading “*Kânûnnâme-i Sultan Kayıtbay der Livâ-i Sis*,” directly invoking the authority of the former Mamluk ruler.⁴⁴² Likewise, the 1548 *Şam Kânûnnâmesi* contains the phrase “*âdet-i kadîm-i bâzâr-ı esb ‘an zamân-ı Kayıtbay*,” situating certain market taxes within a remembered legal tradition dating back to Qaytbay’s reign.⁴⁴³ Therefore, these references not only affirmed the temporal continuity of local regulations but also anchored Ottoman governance in recognizable and legitimate precedents.

Guy Burak has argued that the frequent invocation of Qaytbay’s *kânûn* or *kânûnnâme* in Ottoman legal texts reflects more than an act of historical preservation.⁴⁴⁴ He interprets this practice as part of a broader legitimizing strategy employed by the Ottomans in the early 16th century—one that sought to ground new legal authority in the remembered governance of previous rulers.⁴⁴⁵ To support this view, Burak highlights several examples: references to Sultan Qaytbay in the *kânûnnâmes* of Sis and Adana, as well as allusions to Uzun Hasan in the codes of Çermin, Çüngüş, Hisar, Harput, Mardin, and Urfa.⁴⁴⁶ According to Burak, these

⁴⁴¹ Heyd, “Eski Osmanlı Ceza Hukukunda ...,” 638; İnalçık, “*Ķânûnnâme*,” 564.

⁴⁴² Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, vol. 3, 487. See the *Kânûnnâme* of Jerusalem, where certain taxes are recorded in Kayıtbay gold coinage, suggesting that their origins trace back to the reign of Sultan Qaytbay. Barkan, *XV ve XVI inci ...*, 219.

⁴⁴³ Barkan, *XV ve XVI inci ...*, 223. Another example appears in the *Kânûnnâme* of Egypt, where the gifts (*pişkeş*) collected upon the appointment of sheikhs are described as “*âdet-i Kayıtbay*—the custom of [Sultan] Qaytbay. See Barkan, *XV ve XVI inci ...*, 365. “*ve Kayıtbay zamanında ‘âdet-i câriye bu vech ile idi ki ...*,”

Ahmet Akgündüz, *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, vol. 6, (İstanbul: Fey Vakfı Yayınları, 1991), 110.

⁴⁴⁴ Burak, “Between the *Kânûn* ...,” 9.

⁴⁴⁵ Burak, “Between the *Kânûn* ...,” 9.

⁴⁴⁶ Burak, “Between the *Kânûn* ...,” 9.

instances reveal a conscious attempt to align new Ottoman regulations with established regional precedents, thereby reinforcing both the familiarity and legitimacy of imperial governance.⁴⁴⁷ By anchoring their legal framework in the authority of figures like Qaytbay and Uzun Hasan, the Ottomans positioned themselves not as breakaway rulers, but as custodians and reformulators of a continuous legal tradition.

While Burak highlights references to pre-Ottoman rulers as part of a deliberate imperial strategy to generate legitimacy, the present analysis suggests that their normative authority stemmed not solely from the remembered prestige of these figures, but more crucially from the temporal depth their association conferred upon the practices. Labels such as “*Kânûn-i Hasan Pâdişâh*” or “*Kayıtbay ka ‘idesi*” should not be understood merely as citations of dynastic authorship, but rather as rhetorical markers of antiquity—framing obligations as deeply rooted in a distant, authoritative past. These references functioned as temporal indicators that validated certain practices as *‘âdet-i kadîme*, lending them legitimacy through perceived continuity across generations. Although they may have supported imperial narratives of legitimacy, such references likely originated in local memory and were voiced by community elders during the *tahrîr* process, rather than imposed from above. Elders rarely identified precise dates; instead, they situated customs within broadly remembered historical horizons—“the time of Hasan Pâdişâh” or “the period of Qaytbay.” This temporal framing extended beyond dynastic references. Many *kânûnnâmes* recorded customs under labels such as *Çerâkise ‘âdeti* or *Ekrâd ‘âdeti*, reflecting locally rooted formulations—what communities recalled, for instance, as ‘the way the Kurds have always done it.’ Once incorporated into the imperial legal corpus, these temporal and communal markers acquired institutional authority,

⁴⁴⁷ Burak, “Between the Kânûn ...,” 9–10.

reinforcing the perception that such practices were not only locally sanctioned but also imperially verified as enduring and legitimate. In this sense, the Ottoman administration did not so much invent *‘âdet-i kadîme* as ratify and formalize the authority of practices already legitimated through communal memory and temporal imagination.

This interpretive framework is further supported by Ahmet Özcan’s analysis of the *Çemişgezek Kanûnnâmesi*, which illustrates how local memory shaped not only the content but also the classification of fiscal obligations. Özcan notes that taxes such as “*resm-i kışlak*” (wintering tax) and “*resm-i rûgan*” (butter tax?)—although functionally identical to those imposed in other provinces—were recorded under the designation “*Ekrâd ‘âdeti*” (Kurdish custom) in the *Çemişgezek* register.⁴⁴⁸ However, in other regions, the same taxes appeared under different labels, such as “*Rum ‘âdeti*” (Greek custom) or “*Zulkadirli ‘âdeti*” (Dulkadirid custom), depending on the prevailing historical and administrative legacy of the region.⁴⁴⁹ These variations were not the result of essential differences in the nature or origin of the fiscal obligations themselves, but rather reflected the localized political histories and prior governance structures that shaped how legal norms were remembered, articulated, and ultimately codified. The legitimacy of the practice thus derived not from its inherent content, but from the way it was remembered, named, and linked to a familiar past. By adopting these community-generated labels during the *tahrîr* process, the Ottoman administration codified a form of temporal legitimacy that was spatially variable but rhetorically coherent—anchoring imperial governance in the continuity of regional tradition.

⁴⁴⁸ Özcan, “Uzun Hasan Kanunları ...,” 183–84.

⁴⁴⁹ Özcan, “Uzun Hasan Kanunları ...,” 184.

In sum, the incorporation of references to earlier rulers, dynastic customs, and communal labels into *sancak kânûnnâmes* reveals the centrality of temporal framing in the construction of legal legitimacy. Whether evoking named figures like Hasan Pâdişâh, or designations such as *Ekrâd 'âdeti*, these references situated contemporary practices within a remembered past, thereby affirming them as *'âdet-i kadîme*. While scholars like Guy Burak have interpreted such citations as part of a deliberate imperial strategy to appropriate local traditions, this chapter has argued that their authority stemmed not only from dynastic prestige, but also—and perhaps more enduringly—from the sense of temporal continuity they conveyed, often rooted in communal memory and articulated through the *tahrîr* process.

Moreover, although Burak argues that explicit references to pre-Ottoman rulers in *sancak kânûnnâmes* declined after the mid-sixteenth century, he interprets this development not as a break with the past, but as evidence that legal authority had been fully absorbed by the Ottoman administration—rendering direct invocation of earlier dynasties unnecessary. Yet this rhetorical silence did not mark an end to temporal legitimation. Rather, it signaled a shift in strategy: the empire no longer emphasized the specific origins of a given practice, but instead grounded its legitimacy in abstract markers of duration—such as antiquity, repetition, and continuity. In this sense, the codification of *'âdet-i kadîme* did more than incorporate provincial customs into the imperial legal order. It also provided a temporal language through which Ottoman sovereignty could be articulated—one that drew authority not from concrete historical lineage, but from the appearance of immemorial continuity.

4.4 Lived Custom: Communal Memory, Moral Norms, and the Social Life of

‘âdet-i Kadîme

Departing from the state-centered focus of the previous sections, this part turns to the social life of *‘âdet-i kadîme*, examining how custom operated not only through imperial authority but also through its enactment in communal settings. While the previous section examined how *‘âdet-i kadîme* functioned as a political instrument that reinforced sovereign authority and institutional legitimacy, this section shifts the focus to its embeddedness in everyday life—its role in shaping communal identity, interpersonal conduct, and moral expectations. Far from being a static doctrine imposed from above, *‘âdet-i kadîme* operated as a lived tradition: circulated, internalized, and reproduced through the routine practices of Ottoman subjects. It served as a shared moral vocabulary, delineating what was proper, acceptable, and legitimate within various social settings. In neighborhoods, marketplaces, guilds, and places of worship, custom was not merely invoked—it was enacted. It structured the rhythm of daily life, informed social hierarchies, and offered a framework for resolving disputes. Its normative authority did not derive solely from legal or imperial codification, but from its continual presence in communal memory, oral transmission, and collective expectation. This intimate link between custom and shared memory reveals that the normative power of *‘âdet-i kadîme* was not only social or moral, but also temporal—rooted in the Ottoman perception of time as something experienced through continuity, habitual practice, and intergenerational transmission. Drawing on Özer Ergenç’s insights and building upon anthropological approaches to the habitual reproduction of norms, this section argues that *‘âdet-i kadîme* functioned simultaneously as a regulatory mechanism and a cultural logic—linking the

microdynamics of social interaction to the larger structures of Ottoman order. In doing so, it reveals how the everyday reproduction of custom both reinforced the moral foundations of *nizâm-ı âlem* and sustained the legitimacy of legal norms codified by the imperial center.

In early modern Ottoman society, the social order was organized around distinct subcommunities known as *ta'ife*—semi-autonomous groups defined by profession, religion, or locality. Each *ta'ife* operated with a degree of internal coherence, governed by shared values and traditions, yet remained embedded within a broader imperial framework unified by normative expectations.⁴⁵⁰ At the heart of this structure stood *âdet-i kadîme*, the corpus of long-established customs that functioned as both social glue and moral compass—regulating not only intercommunal relations but also individual conduct. Far from being an abstract or imposed doctrine, *âdet-i kadîme* offered a framework for moral formation, shaping how individuals conceived of their duties toward themselves, their communities, and the empire. These behavioral ideals were neither enforced by coercive mechanisms nor transmitted through formal instruction; rather, they were gradually internalized through the lived experience of communal life—through interaction, observation, and repetition. By internalizing the behavioral ideals associated with custom—such as deference to authority, respect for hierarchy, and commitment to social harmony—Ottoman subjects participated in the reproduction of a normative order where continuity was valued as both a political and personal virtue. Moreover, the moral expectations embedded in *âdet-i kadîme* informed judgments about proper conduct and helped define what it meant to be a “good” subject. As Ergenç has emphasized, these customs did not merely regulate formal behavior; they also produced a model of the “ideal subject”—one who was

⁴⁵⁰ Ergenç, “Continuity and Change ...,” 552.

devout (*mütedeyyin*), obedient to authority (*ulü'l-emr*), deferential to established hierarchies, and committed to preserving the inherited order of the world (*nizâm-i âlem*).⁴⁵¹ In this way, custom functioned as a form of lived ethics, transmitting not only rules but values—values sustained less by law than by repetition, shared memory, and communal affirmation.

One of the key mechanisms through which *âdet-i kadîme* preserved its normative authority was its deep embedding in the social consciousness and intergenerational memory of Ottoman communities. These customary norms were transmitted across generations not only in family settings, but also in shared spaces such as markets, workshops, neighborhoods, and places of worship—contexts in which appropriate conduct was both modeled and socially reinforced.⁴⁵² Individuals were both recipients and transmitters of the norms embodied in *âdet-i kadîme*. Even those who were illiterate absorbed the values of *âdet-i kadîme* through repeated exposure to communal expectations and the moral judgments of their peers—an ongoing process in which individuals not only internalized norms, but also reinforced and transmitted them through daily interaction.⁴⁵³ Temporal expressions commonly found in Ottoman archival documents—such as “in the time of my father” (*babam zamanında*) or “since the days of my ancestors” (*atam zamanında*)—served not merely as rhetorical flourishes but as markers of continuity and transmission, signaling that certain practices were inherited, familiar, and therefore legitimate. These expressions functioned as anchors of collective memory and markers of time perception allowing communities to frame their norms not only as long-standing but as morally binding.

⁴⁵¹ Ergenç, “Continuity and Change ...,” 552; Ergenç, ““İdeal İnsan Tipi” Üzerinden ...,” 423–29.

⁴⁵² Ergenç, “Continuity and Change ...,” 556. For places of knowledge transmission, see Nil Tekgöl, *Reflections of an External World in the Ottoman Mind: The Production and Transmission of Knowledge in the 18th Century Ottoman Society* (unpublished Master’s thesis, Bilkent University, 2011), 31–49.

⁴⁵³ Ergenç, “Continuity and Change ...,” 554–55.

Moreover, this mode of temporal reasoning did not depend on fixed dates or verifiable origins, but on the felt continuity of a practice through generations. In this sense, time was not perceived as linear or progressive, but as recursive and accumulative—measured through repetition, duration, and collective memory rather than calendrical precision. In this way, the Ottoman social order rested not on the coercive enforcement of rules, but on a widely shared repertoire of normative behaviors—practices that were seen as “*the way things had always been done.*” Thus, in early modern Ottoman society, *‘âdet-i kadîme* emerged as a constitutive force in shaping both personal identity and the communal self. Within this communal order—where members collectively vouched for one another (*kefil*)—conformity to these practices was often publicly affirmed in court records and administrative documents through phrases such as “*râzî ve şâkir olmak*,” signaling collective contentment and approval.⁴⁵⁴ Such expressions, frequently found in archival records, reveal that moral conformity and respect for *‘âdet-i kadîme* were not only expected, but also socially rewarded. This deeply rooted, socially sustained nature of *‘âdet-i kadîme* is most vividly reflected in Ottoman court records and administrative documents, where references to custom served not only as rhetorical tools but as evidence of collective memory and communal legitimacy.

This dynamic interplay between communal memory and moral expectation becomes particularly vivid in specific archival examples. A notable case from 1612, recorded in the Istanbul judicial court registers, illustrates how a community invoked *‘âdet-i kadîme* not merely as a nostalgic reference to the past but as a living framework

⁴⁵⁴ Ergenç, “Continuity and Change ...,” 554. For more on the emotional and social dimensions of the expression “*râzî ve şâkir olmak*,” see Tekgöl, *Emotions in the Ottoman Empire ...*, 69–78.

of authority in the present.⁴⁵⁵ In this case, a group of non-Muslim shopkeepers (*zimmi dekâkin ashâbları*) from the el-Hâc Muhyiddin neighborhood appealed to “their ancient custom” (*âdet-i kadîmemiz*) to oppose the practice of opening shops and engaging in trade on Sundays, a day on which, by their account, it had long been customary to refrain from commerce. According to document their objection was grounded in a communal sense of customary propriety. By framing their claim in reference to *âdet-i kadîme* and requesting its recognition by the court, the petitioners demonstrated how tradition operated as a normative structure—regulating economic behavior, mediating disputes, and sustaining communal cohesion.

What makes this document particularly instructive is the phrasing used by the petitioners. The invocation of “*âdet-i kadîmemiz*” highlights the localized and plural nature of custom in the Ottoman Empire—it was not a centrally imposed standard but could be claimed, defined, and defended by individual communities. This reflects the multiplicity of customs operating under the broader idiom of *âdet-i kadîme*, each rooted in the moral expectations and social memory of specific groups. This reveals that the normative power of custom was not only social and legal, but also temporal: it relied on shared perceptions of time—of what had lasted, what was remembered, and what was believed to have “always been so.” Furthermore, the petitioners’ request for a written copy (*sûret yedimize verilmek taleb iderüz*) of the court’s decision reveals how communities sought not only recognition of their customs, but also formal

⁴⁵⁵ Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 1, 145–46. Quoted from İstanbul JCR 1: 33b/4, H.1021 (1612) “*Budur ki merhûm Ahmed Paşa Cami’i kurbünde el-Hâc Muhyiddin Mahallesi’nde vâkî olan dekâkin ashâblarından Yani veled-i Nikola ve Mirodi veled-i Todori ve Yorgi veled-i Nikola ve Rado veled-i Novalko ve Hristodoli veled-i Mihaîl nâm zimmîler ve sâ’irleri meclis-i şer‘a hâzırûn olup takrîr-i kelâm ve bast-ı merâm idüp ‘âdet-i kadîmemiz Bâzâr günü Yevmü’l-Ahad’dür dükkân açup bey’ u şîrâ olunmamak üzre iken içimizden ba’zı üstadlarımız yîğitbaşımızın ve sâ’ir üstadlarımızın rızaları yok iken Bâzâr günü dükkân açup bey’ u şîrâ eylemek ile mâ-beynimizde münâza‘ât-ı kesîre vâkî olmâğın min-ba’d Bâzâr günü dükkân açup bey’ u şîrâ idenlerimizin hâkim hakkından geldikten sonra subaşı dahi cerî-mesîn alsun deyü ittifâk-ı mütefîkin âsârı olduğundan minvâl-i meşrûh üzere olan ta’ahhüdlerimiz tahrîr olunup sûret yedimize verilmek taleb iderüz didiklerinde vech-i muharer üzere olan ittifâk ve ta’ahhüdlere talebleriyle ketb olundu.*”

documentation to preserve and enforce them. In doing so, they effectively transformed socially embedded expectations into legally acknowledged standards. This case thus exemplifies the dual character of *‘âdet-i kadîme* as both a lived tradition and an instrument of formal negotiation—connecting communal practice with imperial structures of legitimacy.

The role of *‘âdet-i kadîme* was particularly salient within the guild system (*esnaf ve lonca teşkilatı*), one of the most enduring and socially embedded institutions of early modern Ottoman society. Guilds functioned not only as professional associations but also as moral communities governed by a shared repertoire of customs, rituals, and hierarchies that structured both economic production and social behavior. Within this framework, *‘âdet-i kadîme* operated as a stabilizing force, establishing the rules of trade, the standards of craftsmanship (*ma‘rifet* (practical knowledge) and *hüner* (skill)), and the proper conduct of guild members. In a sense, it constituted a shared body of practical knowledge and customary ways of doing things.⁴⁵⁶ It determined where and how a service could be offered, who had the right to operate a shop, how apprentices advanced in rank, and what forms of disciplinary action could be taken in cases of transgression—all based on longstanding precedents rather than written legal codes. According to Eunjeong Yi, guilds were able to handle many internal and external matters by appealing to their customary practices (*‘âdet*). This discourse of custom was commonly invoked in disputes over the distribution of raw materials, violations of occupational boundaries, or the internal functioning of the guild—such as the order of work rotation or the allocation of goods.⁴⁵⁷ These customs were transmitted through direct experience, embodied practice, and oral instruction.

⁴⁵⁶ Elsky, *Custom, Common Law ...*, 20–28.

⁴⁵⁷ Eunjeong Yi, *17. Yüzyıl İstanbul’unda Lonca Dinamikleri*, trans. Barış Zeren (İstanbul: Türkiye İş Bankası Yayınları, 2018), 135.

Masters (*üstâd*) and elders (*ihtiyâr*) conveyed traditional knowledge exactly as they had once acquired it themselves, thereby reinforcing a cyclical and intergenerational model of learning.⁴⁵⁸ As a result of this embedded transmission, such customs held significant normative authority and were often invoked in times of dispute, cited in court petitions and imperial decrees, and reaffirmed through the oral testimonies of guild elders. In this sense, *âdet-i kadîme* in the guild context was not merely about preserving tradition for its own sake, but about sustaining a normative order that balanced professional autonomy with communal responsibility. The continuity of these customs helped ensure the integrity of economic life, the moral expectations of work, and the intergenerational transmission of artisanal identity. Thus, the guilds serve as a prime example of how *âdet-i kadîme* functioned as a living tradition—simultaneously regulating, legitimizing, and preserving the socio-economic fabric of Ottoman urban society.

A particularly revealing case that illustrates how *âdet-i kadîme* functioned as a binding regulatory framework within the guild system comes from a judicial court record dated 1661 in Istanbul.⁴⁵⁹ In this instance, representatives of the merchant guild

⁴⁵⁸ Ergenç, “Continuity and Change ...,” 555.

⁴⁵⁹ Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 2, 394–97. Quoted from İstanbul JCR 9: 115a/2, H.1072 (1661) “Mahmiyye-i İstanbul'da Bezzazistan kurbünde vaki' tacirler ta'ifesinin kethüdaları es-Seyyid Mehmed Çelebi ibn Abdurrahim ve yiğitbaşları İsmail Çelebi ibn İbrahim ve ihtiyarlarından Ali Çelebi ve İbrahim Çelebi ibn Mustafa ve Mehmed Beşe ibn Halil ve Mustafa bin Osman ve Mehmed Beşe ve Receb bin Abdullah ve yeniçeribaşısı Usta Receb bin Abdullah ve Usta Ebibekir bin Abdullah ve Üstad Süleyman ve sa'irleri ba-cem'ihim meclis-i şer'-i hatirde bazergan ta'ifesinden el-Hac Mamud Beşe ibn Ali ile tacirlerden Yusuf bin Abdullah ve Abdülbaki ibn Derviş nam kimesneler mahzarlarında her biri takrir-i kalam idüp feth-i hakaniden berü tacirlerden olup dükkanlarda oturan kimesneler sahtiyan işleyen vilayetlerden varup sahtiyan almak veyahud ol vilayetlerden ortaklar ittihaz idüp anların yedleri ile sahtiyan alup ba'dehu götürüp dükkanlarda hıfz ve iddihar idüp istedikleri zamanda diledikleri baha ile virmek beynimizde mu'tad olmaduğundan ma'ada bazerganlık idüp sahtiyan işleyen vilayetlerden sahtiyanı götürüp bey'idegelenler tacir olup dükkanlarında oturmayup ve bu vech üze bazerganlık ile tacirliğini cem'irmek için yedimizde hüccet ve müte'addid evamir-i şerife olmağın mezbur el-Hac Mahmud Beşe bazergan iken getirdiği sahtiyanları bir mahzende hıfz idüp bize bey'itmeyüp ve mezburan Yusuf ve Abdülbaki dükkanda oturan tacirlerden iken sahtiyan işlenen vilayetlerde şarikler ittihaz idüp anların yedleriyle sahtiyan alup ba'dehu götürüp dükkanlarda hıfz idüp istedikleri zamanda diledikleri bahaya bey'idüp hirfetimiz ahalisine hisse virmeyüp yedimizde olan hüccet ve evamire muhalif bazerganlık ile tacirliği cem'eylemeleri ile beynimizde olan 'âdet-i kadimeyi hazf ve hirfetimiz ahalisi beynlerinde ihtilale ba'is ve badi olduklarından gayrı çizme ve papuç ve mest ziyade

(*tüccâr ta'ifesi*)—including the *kethüda* Seyyid Mehmed Çelebi, *yiğitbaşı* İsmail Çelebi, and several senior guild members—filed a formal complaint against el-Hâc Mahmud Beşe, a traveling leather merchant (*bezirgân*), and two fellow merchants, Yusuf and Abdülbaki. The plaintiffs argued that, contrary to established guild practice (*mu'tâd olmamaktan*), Yusuf and Abdülbaki were obtaining processed leather (*sahtiyân*) through rural partners, stockpiling it in their shops, and selling it at arbitrary and inflated prices. What particularly troubled the complainants was the relationship between Mahmud Beşe and the two shopkeepers: though a *bezirgân*, Mahmud was selling exclusively to Yusuf and Abdülbaki, effectively forming an informal partnership with them and enabling them to bypass customary market norms. This, they claimed, blurred the customary distinction between *bazergânlık* (interregional trade) and *tâcirlik* (stationary urban shopkeeping)—a distinction carefully regulated by '*âdet-i kadîme* to ensure fair competition, stable prices, and intra-guild equity.

In their petition, the plaintiffs not only invoked existing imperial orders (*emr-i şerîf*) and *hüccets* in their possession, but emphasized that such conduct violated long-standing custom ('*âdet-i kadîme hazf olunup*), caused internal disorder (*ihtilâl*), and harmed the broader public (*kaffe-i nâsa zarar ve ta'addileri vardır*). The qadi accepted the complaint and ruled that Mahmud Beşe must offer his *sahtiyân* to all merchants at prevailing rates and instructed Yusuf and Abdülbaki to cease trading across regions in a manner that interfered with the domain of urban merchants. In other words, the court restored the customary separation of commercial roles and reaffirmed '*âdet-i kadîme*

bahaya çıkmakla kaffe-i nasa zarar ve ta'addileri vardır deyü takrirlerine muvafık hüccet ve evamir-i şerife ibraz idüp muvacehelerinde feth ve kiraet olunup mezbur el-Hac Mahmud Beşe ve Yusuf Beşe ve Abdülbaki su'al olunduklarında cevaplarında kazıyye balada tafsili olunduğı üzere idüğün her biri mukırr ve mu'terifler olmağın tacirler ta'ifesinin yedlerinde olan hüccet-i şer'ıyye ve evamir-i mü nife mucebince 'amel olunup min ba'd mezbur el-Hac Mahmud getirüp mahzende hıfz eylediğı sahtiyani değer bahasıyla tacirlere 'âdet-i kadimeleri üzere tevzi' ve taksim ve mezburan Yusuf Beşe ve Abdülbaki dahi yalnız bazerganlık idüp tacirlere karışmamak üzere tenbih olunup ma-vaka'a bi't-taleb ketb olundu fi'l-yevmi'l-hamis aşer mine'l-Muharremi'l-haram li-sene isneteyn ve seb'ine ve elf."

as the legitimate regulatory basis. This case vividly demonstrates that *‘âdet-i kadîme* was not merely a nostalgic reference to the past, but a living economic ethic—deeply rooted in professional memory, structured through communal expectations, and defended through institutional mechanisms. In this sense, the moral and communal authority of *‘âdet-i kadîme* was inseparable from the Ottoman perception of time, in which continuity and repetition functioned as key indicators of legitimacy. It also illustrates that rather than being codified in formal law, such customs were maintained through repetition, shared expectation, and oral instruction. The guilds thus exemplify how *‘âdet-i kadîme* regulated not only trade, but also upheld the moral and social fabric of Ottoman artisanal life.

Returning back to the main discussion, although the discourse of *‘âdet-i kadîme* was frequently mobilized by a diverse range of actors—from state officials and local notables to occupational guilds and ordinary subjects—it was not the product of a purely top-down imposition or a strictly grassroots construct. Rather, as Ergenç emphasizes, it emerged through a cyclical and reciprocal process in which state-defined ideals and community-rooted practices mutually informed and reinforced one another.⁴⁶⁰ Norms conveyed by elites through political discourse or moral instruction gradually permeated local communities, where they were integrated into everyday life and internalized as shared expectations. In turn, the customs practiced and maintained by these communities—shaped by long-standing habitus and communal memory—were often recognized, formalized, or reaffirmed in official discourse and legal documents. This mutual reinforcement endowed *‘âdet-i kadîme* with legitimacy from both above and below, allowing it to function as a normative language common to both the imperial center and the periphery. Archival sources frequently reference communal

⁴⁶⁰ Ergenç, “Continuity and Change ...,” 553.

testimony—such as the appearance of a “*cemm-i gafîr*” (large public assembly) in court—as evidence of the collective memory sustaining such customs.⁴⁶¹ In this way, ‘*âdet-i kadîme*’ served not only as a regulatory framework but also as a medium through which imperial and communal authority converged, enabling continuity, negotiation, and legitimacy across Ottoman society.

One particularly revealing case of how custom functioned as a community-specific normative order can be found in a 1618 imperial warrant (*berât*) issued for the reappointment of Avanos as the Armenian Patriarch of Rumelia and Anatolia.⁴⁶² The document grants the patriarch the authority to govern the internal affairs of the Armenian community “according to their ancient customs” (‘*âdet-i ‘atılları üzre*’)—including matters of clerical appointments, the handling of inheritance and funeral rituals, the regulation of marriage and divorce, and the administration of communal property. The emphasis on the continuity of internal practice—articulated through terms like “as has been done since ancient times” (“*kadîmden olıgeldüğü üzre*”)—makes clear that these customs were not imposed by the imperial center but emerged from within the communal fabric of the Armenian community. In this context, ‘*âdet-i kadîme*’ functioned as both a social grammar and a moral lexicon: it provided behavioral templates that structured daily life, defined moral expectations, and reinforced communal belonging. Conformity to these customs thus operated not only

⁴⁶¹ Ergenç, “Continuity and Change ...,” 553–54; Ergenç, “Toplumsal Düşünce Açıklama Kanalı ...,” 442–454.

⁴⁶² Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 1, 533–536. Quoted from İstanbul JCR 3: 90a/1: H. 1027 (1618) “...buyurdum ki varup nefs-i İstanbul'a ve Galata ve Rumeli ve Üsküdar ve Burusa ve Kütahya ve Sivas ve Tokad ve Kayseriyye ve Trabzon ve Ankara ve Keçe murahhasına müte'allik umûrî âyîn-i bâtila ve 'âdet-i 'atılları üzre patrik olup kimesne mâni' ve da'î' olmayup bâlâda mestûr olan Ermeni murahhasası ve papasları ve keşişleri ve sa'ir Ermeni ta'ifesinin ahalisi ve [. . .] mezbûrî kendülerine patrik bilüp...” “papas ve keşişlerden biri mürd oldukda metrûkâtının beş binden ziyâdesi mîrî için tahsiline me'mûr olmağla kabz eyleyüp eğer beş binden ekal olursa olıgelen 'âdetden nefer [?] üzre ve ayinleri mücebince râhib-i mezbûr zabt eyliye ...” “mezbûrlardan birinin 'âdet-i 'atılları üzre günahları sâdır olup ihrâcları lazım gelse kadîmden olıgeldüğü üzre murahhasalıktan ref' idüp yerine patrik-i mezbûr müstahak olanı ta'yîn idüp ve 'âdeten lazım gelen pişkeşi alınup vâsıl-ı hazîne eyledikten sonra tasarrufi için berât-ı hümâyûn virile kimesne mâni' olmaya”

as a mode of internal cohesion but also as a claim to legitimacy vis-à-vis both the state and the broader society. The fact that the patriarch's jurisdiction was formally defined through reference to these established communal customs underscores their recognized authority and deep embedding within both the social and administrative order. Rather than a top-down imposition, custom here appears as a collectively inhabited tradition—one that shaped communal identity and maintained its normative force precisely through its moral resonance and patterned enactment in everyday life.

Taken together, the preceding sections have demonstrated that *'âdet-i kadîme* functioned not merely as a remnant of the past, but as a living normative framework that shaped imperial governance, social interaction, and legal memory in the early modern Ottoman Empire. Whether through its incorporation into codified legal texts, its embeddedness in communal life, or its invocation during times of crisis, *'âdet-i kadîme* served as both a repository of continuity and a flexible resource for negotiating authority and legitimacy. What emerges from this analysis is that the normative power of custom derived not only from its content but also from the ways in which it was remembered, narrated, and reactivated across diverse social and institutional contexts. This points to a deeper question of time perception in Ottoman society: how continuity and antiquity were constructed, imagined, and mobilized to legitimize normative frameworks. The following chapter builds directly upon this foundation by examining the temporality of *'âdet-i kadîme*—not simply as a backdrop to legal and social practice, but as a constitutive element in the very production of custom. It investigates how perceptions of continuity, longevity, and antiquity were constructed, invoked, and mobilized in Ottoman discourse, and how such temporal narratives endowed customary practices with binding authority. In doing so, it shifts the focus from the

uses of custom to the temporal logics through which custom was legitimized and sustained.



CHAPTER V

THE TEMPORALITY OF *‘ÂDET-İ KADÎME*: CONTINUITY, AMBIGUITY, AND STRATEGIC MOBILIZATION IN THE EARLY MODERN OTTOMAN EMPIRE

5.1 Constructing Time: Continuity, Longevity, and Authority in the Making of *‘Âdet-i Kadîme*

This section investigates the temporal foundations of *‘âdet-i kadîme* in the early modern Ottoman Empire by exploring how time—rather than serving merely as a historical backdrop—functioned as a constitutive element in the production, recognition, and legitimization of custom. In this context, a practice did not derive its normative authority solely from sultanic legal codification; rather, it gained legitimacy through its embeddedness in time—articulated through the perceived length of its usage, its uninterrupted continuity, and its widespread acceptance as binding by both individuals and institutions.

The central argument of this section is that temporality itself operated as a legitimizing discourse in Ottoman legal and social practice. Rather than treating *‘âdet-i kadîme* as a static inheritance from ancient cultural traditions, this section contends that it was a dynamic construct—its authority continually renewed through rhetorical

invocations, repetition, and affirmation over time. Furthermore, I contend that instead marking objective durations that corresponded to the true antiquity of a custom, temporal references primarily reflected how its age was imagined and constructed within the collective memory. The perceived continuity of a practice, its repeated invocation, and its association with temporal depth endowed it with normative authority in the early modern Ottoman Empire. As such, this section argues that the temporality of *'âdet-i kadîme* was not merely descriptive but constitutive—reflecting broader Ottoman perceptions of time and functioning as a key mechanism for securing the legitimacy and stability of custom. The authority of custom, in this framework, cannot be separated from the temporal narratives that sustained it.

To examine how such temporal authority was constituted and maintained in legal and social contexts, this section focuses on three interrelated analytical dimensions: (1) continuity in usage, (2) the perception of long duration, and (3) validation through recognized authority. These dimensions are central to the temporal constitution of *'âdet-i kadîme* because they illuminate how perceptions of repetition, endurance, and institutional recognition transformed custom into a temporally grounded source of legitimacy. Drawing on a wide array of primary sources—including judicial court records, imperial orders, and guild regulations—this section traces how the temporal embeddedness of a practice shaped its normative status in legal and administrative discourse.

While the works of scholars such as Özer Ergenç and Hakan Karateke explicitly engage with the temporal language and structure of *'âdet-i kadîme*, the studies of Claudia Kickingner, Eunjeong Yi, Viorel Panaite, and Suraiya Faruqi do not always frame their analyses through the lens of temporality. Nevertheless, their research provides rich empirical insights—such as repeated practices, appeals to

precedent, and claims of uninterrupted tradition—that allow for a temporal reading. This section thus builds on their contributions to offer a conceptual framework that foregrounds temporality as a generative force in the making of *‘âdet-i kadîme* in the early modern Ottoman context.

In addition to source-based analysis, this discussion also engages with broader theoretical perspectives from legal history and political thought. Scholars such as Stephanie Elsky, Yanna Yannakakis, Tamar Herzog, Francesca Iurlaro, Kaarlo Tuori, Marie Seong-Hak Kim, and E.P. Thompson have shown that the authority of custom in European traditions often derived not from verifiable antiquity but from the performance of continuity and the symbolic authority embedded in temporal duration. These perspectives help situate *‘âdet-i kadîme* within a wider historiographical and theoretical conversation about the temporal logic of custom. In doing so, this section not only deepens our understanding of the Ottoman experience while contributing to a broader comparative inquiry into how temporality serves as a generative axis of legitimacy across different customary legal traditions.

5.1.1 The Power of Persistence: Continuity and Longevity in the Making of *‘Âdet-i Kadîme*

What rendered a practice recognizable as *‘âdet-i kadîme* in the early modern Ottoman Empire was not necessarily its demonstrable antiquity grounded in verifiable origins, but rather the perception of long-standing continuity—sustained through repetition and embedded in collective memory. Customs acquired normative authority

not because they could be dated precisely, but because they appeared to endure across generations and resist rupture. The persistent invocation of tradition—even in moments of contestation—signaled that a given practice had become woven into the moral and social fabric of Ottoman communal life. Whether anchored in communal memory or validated through testimonial mechanisms, such practices came to represent stability and order, offering a compelling basis for normative claims. In this sense, continuity and longevity did not merely describe custom; they constituted it.

This sub-section draws on a range of Ottoman sources to explore how the perceived duration and repeated enactment of certain practices enabled them to be recognized—and strategically mobilized—as *‘âdet-i kadîme*. It argues that the normative authority of custom derived less from what could be proven about the past than from what could be sustained in the present and projected into the future.

The passage of time was important to custom because it spoke to its legal validity.⁴⁶³ The assertion that a certain practice has existed “since time immemorial” or has been continuously upheld “since ancient times” serves to confer temporal depth upon that practice, thereby imbuing it with authority and legitimacy. In this context, what qualified a custom as *ancient* was not verifiable antiquity, but its embeddedness in collective memory.⁴⁶⁴ Customs that are socially recognized and transmitted across generations through persistent repetition gain temporal continuity, which in turn reinforces their binding authority. Especially in the case of unwritten practices that extend beyond individual lifespans, the extent to which they are anchored in collective

⁴⁶³ Kuskowski, “The Time of Custom ...,” 145.

⁴⁶⁴ Marie Seong-Hak Kim, *Custom, Law, and Monarchy: A Legal History of Early Modern France* (Oxford University Press, 2021), 44–45.

memory determines their integration into the broader fabric of social order.⁴⁶⁵ For this reason, continuity and repetition are among the most essential temporal strategies that enable practices to become institutionalized as customs. While laws became binding through the formal enactment of official authority, customs reinforced through constant implementation and repetition eventually transcend the realm of mere habitual behavior and evolve into legitimate, internalized norms.⁴⁶⁶ Moreover, individuals do not merely comply with such customs; rather, they embrace them as an inherent and unquestioned part of the established social order. In this regard, British Marxist historian E.P. Thompson aligns with thinkers such as Sir Edward Coke and Samuel Carter, who emphasized the central role of antiquity and repetition in the formation of custom. According to Thompson, when a particular practice is deemed reasonable, useful, and consistent with the inclinations of the people, it is repeated; over time, this repetition transforms the act into a custom.⁴⁶⁷ If that repetition continues uninterrupted over a sufficiently long period—what is perceived as “since ancient times”—the custom acquires the force of law, even attaining the status of a legal norm.⁴⁶⁸ Similarly, Stephanie Elsky, referencing Neil Duxbury, notes that in early modern England, common-law jurists consistently tied the legal validity of a custom to demonstrable longevity.⁴⁶⁹ Duxbury argues that virtually every common-law jurist writing between the thirteenth and seventeenth centuries believed that for a custom to attain the status of common law, it must have been in long-standing and continuous use.⁴⁷⁰ In addition, late antique legal codes also emphasized that only customs

⁴⁶⁵ Alan Watson, “An Approach to Customary Law,” *University of Illinois Law Review* 1984, no.3 (1984): 564; Carol J. Greenhouse, “Just in Time: Temporality and the Cultural Legitimation of Law,” *The Yale Law Journal* 98, no. 8 (1989): 1642; Yannakakis, *Since Time Immemorial* ..., 32–33.

⁴⁶⁶ Herzog, “Immemorial (and Native) Customs ...,” 158.

⁴⁶⁷ Thompson, *Customs in Common*, 97.

⁴⁶⁸ Thompson, *Customs in Common*, 97.

⁴⁶⁹ Elsky, *Custom, Common Law* ..., 24–26.

⁴⁷⁰ Elsky, *Custom, Common Law* ..., 24–26.

characterized by long-standing and consistent use—“*longa consuetudo*”—could acquire the force of law.⁴⁷¹ This principle, which continued to shape medieval legal thought, closely parallels the Ottoman conception of *âdet-i kadîme*. This further underscores that the persistent and stable perpetuation of a customary practices were considered decisive for its normative legitimacy.

In the early modern Ottoman context, the practices characterized as *âdet-i kadîme* are not relics of a fixed and static “past,” but rather dynamic forms of conduct that acquire legitimacy through persistent repetition, social memory, and circulation within society. Yet their normative force is grounded in the way these practices permeate the social structure. Customs gain authority by virtue of their perceived rootedness in the past, and over time, they become entrenched in collective memory as norms that are no longer open to question. This authority functions not only as an abstract sense of custom but also through concrete behavioral patterns that shape individuals’ daily lives. People believed that “a certain behavior had always been practiced in this way; those around me have continued to practice it in this way; therefore, I must also continue it.”⁴⁷² As Özer Ergenç has emphasized, in Ottoman society, customs did not merely establish specific social rules; they also functioned as symbolic and practical forms that shaped individuals’ identities and behavioral patterns.⁴⁷³ Customs exerted normative influence over a wide array of daily practices, ranging from behavior in public and private spaces to the proper ways of conducting trade in the marketplace—even to the manner in which meals were to be properly consumed.⁴⁷⁴ These customs acted as a medium of continual symbolic exchange in

⁴⁷¹ Kuskowski, “The Time of Custom ...,” 158.

⁴⁷² Kuskowski, “The Time of Custom ...,” 153.

⁴⁷³ Ergenç, “Continuity and Change ...,” 556.

⁴⁷⁴ Ergenç, “Continuity and Change ...,” 556.

interpersonal interactions—in the city, the district, the neighborhood, and the household—whereby norms were not only preserved but also reproduced through every encounter.⁴⁷⁵ Therefore, in Ottoman socio-political life, *‘âdet* operated as a normative framework that defined the “proper” or “ideal” ways of doing things. Moreover, the central authority draws the boundaries of its relationship with local governance based on “*kadîm usûl*”—a principle that functions both as a practical guide and a source of legitimacy. The ongoing repetition and social enactment of these customs ensured their consolidation not only temporally but also socially, thereby facilitating their transmission across generations.⁴⁷⁶ In this way, *‘âdet-i kadîme* was not merely a residue of the past, but a continually reproduced instrument of social order.

In this framework, an imperial edict dated August 5, 1571—issued in response to a complaint by the *abâ*-makers’ guild in Edirne—clearly illustrates the powerful role of custom as a normative force embedded in social memory through its temporal continuity.⁴⁷⁷ According to the document, *abâs* brought into Ottoman territories from outside were, *since time immemorial*, distributed among members of the *abâ*-makers’ guild under the supervision of the *kethüda* and *yiğitbaşı*, in accordance with established customary procedures. However, in recent times, certain individuals had reportedly interfered with this process from outside the guild, thereby violating long-standing custom. In response to this complaint, the sultan ordered that no actions

⁴⁷⁵ Ergenç, “Continuity and Change ...,” 556.

⁴⁷⁶ Ergenç, “Continuity and Change ...,” 556.

⁴⁷⁷ BOA, A.DVNS.MHM.d 15-668, H-13-03-979. “*Edirne ‘abâcıları âdem gönderüb kadîmü’l-eyyamdan hariçden mahmiyye-i mezbureye ‘abâ geldiklerinde mabeynlerinde tevzî’ ve taksim olunub ve şakird başına salmalu oldukda kethüda yiğitbaşları ma’rifetiyle çıkub ‘âdete muhâlif iş olmaz iken hâricden ba’zı kimesne karışub olıgelene muhâlif iş olduğun bildirdükleri ecilden kadîmü’l-eyyamdan mabeynlerinde cari olan ‘âdet ve kanûnlarına mugayir iş üdirmeyüb bu babda ellerinde olan hüccetleri âmel idüb olıgelene muhalif iş itmek isteyenleri itmeyenleri men’ eyleyeler deyü ber vech-i hükm buyruldu.*”

contrary to the prevailing *âdet* and *kânûn*—in force *since ancient times*—be permitted; that the distribution should follow the procedures defined in the documents held by the guild; and that those who acted in contradiction to the custom be restrained. This case demonstrates that *âdet* was not merely the repetition of a past practice, but rather a norm that actively shaped present-day order by drawing its legitimacy from the authority of the past through continuity. Moreover, the disruption of the customary sharing procedure among *abâ*-makers by external actors was not perceived simply as a technical irregularity, but rather as a breach threatening the continuity of the social order. The document’s invocation of phrases such as “*kadîmü’l-eyyâm’dan beri oligelen*” (“in practice since ancient times”) underscores both the historical depth and the unquestionable authority of the custom. Thus, this case provides concrete evidence of how the elements discussed on a theoretical level—temporal continuity, reinforcement through repetition, and social internalization—were materialized within the everyday operations of the early modern Ottoman guild system.

Returning to the discussion, practices that are repeated continuously over time tend to become “learned” and “naturalized” norms within collective memory, playing a central role in the consolidation of custom’s normative authority.⁴⁷⁸ Over time, individuals continue to observe such practices not merely out of obligation, but because they are seen as historically grounded and socially entrenched. A telling example appears in the *Kânûnnâme* of Mehmed II, in which the sultan refers to both inherited and self-enacted regulations as “the law of my forefathers and my own law.”⁴⁷⁹ This formulation illustrates how certain norms acquire legitimacy through intergenerational repetition and how they come to define a domain of continuity to be

⁴⁷⁸ Elsky, *Custom, Common Law* ..., 33.

⁴⁷⁹ Abdülkadir Özcan, “Fatih’in Teşkilat Kanûnamesi ve Nizam-ı Âlem İçin Kardeş Katli Meselesi,” *Tarih Dergisi*, no. 33 (June 2011): 29.

transmitted to future generations. It is not merely an appeal to historical precedent but a declaration that the past—through repetition—must be extended into a normative future. In this way, practices that are continually reiterated evolve into obligatory, naturalized, and binding norms.

In order to be truly effective and sustainable, a custom must also remain adaptable to the conditions of the present. Mehmed II's decision not only to preserve the laws of his ancestors but also to revise and reorganize them, when necessary, suggests that *ʿörf* and *ʿâdet* functioned not merely as inherited traditions but as flexible regulatory instruments responsive to contemporary needs. This further underscores that custom becomes a normative framework not only by virtue of its historical depth, but also through its capacity for adaptation. Francesca Iurlaro's observations on customary practices in the Roman law are illuminating in this regard: if a customary practice no longer serves the public good or fails to reflect the spirit of the times, it is either corrected by statute or entirely abolished.⁴⁸⁰ Thus, historical continuity is not a static process of repetition but often one of transformation. As Kuskowski argues the belief that medieval societies perceived custom as necessarily old and unchanging is not a reflection of medieval reality, but rather the result of a modern temporal ordering designed to distinguish modernity from its medieval past.⁴⁸¹ The association of modernity with progress and future-oriented thinking fostered the assumption that customs signified traditionalism and resistance to change. Moreover, the way people thought about custom as something old and continuous fits with what historians, like Koselleck, said about modern time: Modernity was obsessed with newness and a strong awareness of time moving and accelerating (*Neuzeit*).⁴⁸² However, even in

⁴⁸⁰ Iurlaro, *The Invention of Custom* ..., 25.

⁴⁸¹ Kuskowski, "The Time of Custom ...," 146.

⁴⁸² Koselleck, *The Practice of Conceptual History* ..., 154–69.

traditional societies, customs cannot remain entirely fixed in the face of changing social conditions. Rather, when confronted with crises or evolving needs, such societies are compelled either to reinterpret or reshape their traditions.⁴⁸³ Similarly, Stephanie Elsky underscores the dual function of custom as both a producer of cultural belonging and social stability, and as a flexible framework capable of responding to change.⁴⁸⁴ To recapitulate, customs are portrayed not as belonging to a single moment in time but to all times; it appears to reject innovation while simultaneously encompassing it.⁴⁸⁵ From this perspective, *‘âdet* operates as a normative framework that holds both stability and change in tension, simultaneously preserving continuity and accommodating transformation.

An imperial edict dated May 2, 1571 offers a compelling illustration of how the recognition of a practice as *‘âdet* depends not only on its historical continuity, but also on its capacity to adapt to changing circumstances.⁴⁸⁶ According to the document, the governor (*beylerbeyi*) of Damascus reported that it had long been customary for pilgrims returning from the Hajj to be received at the fortress of Tabûk. However, the same correspondence noted that this practice could not be maintained in the current year due to extraordinary environmental conditions such as famine, weakened camels, and insufficient rainfall. Notably, the *beylerbeyi* also described the alternative

⁴⁸³ Yi, 17. Yüzyıl İstanbul’unda ..., 133.

⁴⁸⁴ Elsky, *Custom, Common Law* ..., 37.

⁴⁸⁵ Premo, “Custom Today ...,” 355.

⁴⁸⁶ BOA, A.DVNS.MHM.d.12-348, H-07-12-978. “Şâm defterdârına hüküm ki: Südde-i Sa‘âdetime mektûb gönderüb; “huccâc istikbâline Tebûk nâm kal’aya varmak ‘âdet olub lâkin bu sene-i mübârekde ziyâde kaht ve salma develeri za‘f ve yağmur killet üzre olmağın Alâ’ya dek varılmak” lâzım idüğün ve “Kadîmden kaht u killet oldukda mahall-i mezbûra dek varılarmışdır.” deyü haber virmeğın; “harc-ı lâzimleri mukaddemce görölüb tedârük olmak” bâbında hüküm gönderilmesin” arzeylemeğın imdi; bu makûle masâlih-ı mühimme olıcak arz olunmağa ihtiyâc yokdur. Ale’l-husûs bu sene-i mübârekde huccâc kesret üzre olub zahîre dahi killet üzre olmağın buyurdum ki: Vusûl buldukda, te’hîr eylemeyüb huccâc istikbâline müte‘allik vâkı’ olan mühimmâtda tedârîki için harc-ı lâzimelerin mukaddemce tedârîk eyleyüp ber-vech-i isti‘câl teslîm eylesin ki, avk u te’hîr olunmalu olmayub vakti ile varub mahall-i ma’hûda dek istikbâl eyleyeler. Husûs-ı mezbûr mühimmât-ı umûrdandur; sâyire kıyâs eylemeyüb bâb-ı ikdâmda dakîka fevteylemeyesin.”

reception of the pilgrims in Alâ as a practice that had also been in place “since ancient times” during times of scarcity. This rhetorical strategy reveals that not only standard practices, but also their crisis-time alternatives, could be legitimized through historical continuity. By emphasizing the antiquity of this adaptive practice, the *beylerbeyi* anchored it within an institutional framework, thereby illustrating how custom could be contextually redefined. The document further records the *beylerbeyi*’s request for the necessary expenses for the reception to be covered as they had been in the past. The sultan responded by endorsing the proposal as being in the public interest and instructed the treasurer of Damascus to disburse the necessary funds without delay or hesitation. This document challenges assumptions that portray ‘*âdet*’ as a fixed and monolithic norm. On the contrary, it demonstrates that the continued relevance and applicability of ‘*âdet*’, even in moments of crisis, relies on its flexible and multi-layered character. In this sense, ‘*âdet*’ emerges as a living normative framework—one that retains its historical continuity and social legitimacy by responding to changing environmental and social conditions and by maintaining alternative interpretations ready for deployment.

In a similar vein, an imperial edict dated August 8, 1567, and addressed to Vizier Mustafa Pasha underscores that ‘*âdet*’ functioned through its capacity for reactivation in moments of necessity.⁴⁸⁷ According to the document, the 25-*akçe* payments previously issued to the Damascus *sipâhîs*—who were responsible for the protection of pilgrims *en route* from Damascus—had been revoked. Instead, these

⁴⁸⁷ BOA, A.DVNS.MHM.d.7-786, H-02-08-975. “*Vezîr Mustafa Paşa’ya hüküm ki; Haliyâ mektûb gönderüb Şam’dan müteveccih olan huccâc-ı zevî’l-ibtihâc muhâfazasıçün koşılan Şâm sipâhîlerine deve kirâsıçün virilen yigirmi beşer altun virilmeyüb sâir Memâlik-i Mahrûse’de olan sipâhîler gibi her sene nevbette hıdmet itsünler deyü mukaddemâ emrim olub hâlâ Şâm timârları müceddeden tahrîr olunub timârları ma’lûm olmamağla bu sene külli muzâyaka üzere oldukların bildirmişsin bu husûsı defter kethüdâsı olub Şâm emir-i hâc olan dâhî ‘arz itmişdi girü ‘âdet-i kadîme üzere virülegelen ne ise müşarünileyhin ‘arzı mücebince virilmesine emr idüb buyurdum ki varub emrim üzre huccâc muhâfazasıçün koşılan Şâm sipâhîlerine olıgelen ‘âdet üzere girü viresin.*”

sipâhîs were now expected to provide rotational (*nevbetle*) security services, much like their counterparts in other provinces along the pilgrimage route. However, due to the new ongoing cadastral survey in Damascus and the resulting uncertainty surrounding the *sipâhîs*' *timars*, a financial crisis had emerged. Therefore, the *emîr-i hacc* of Damascus conveyed this situation to the imperial center. In response, the sultan ordered that the previously issued payment should be reinstated “‘*âdet-i kadîme üzere*”—according to established custom—based on the determination of the *emîr-i hacc*. What is particularly noteworthy here is that a discontinued practice could be re-legitimized with the label of “*kadîm*” when the appropriate conditions arose. This demonstrates that in the Ottoman political culture, ‘*âdet* derived meaning not only from uninterrupted continuity, but also from its capacity to be selectively reactivated. Additionally, the payment to the Damascus *sipahîs* had likely been revoked for reasons of fiscal efficiency or parity with other provinces, but it was reinstated due to specific administrative constraints and economic hardship in the Damascus region. Thus, this case reaffirms that ‘*âdet* was not a fixed, absolute, or immutable institution. Rather, it functioned as a historically legitimized and contextually adaptable normative system—one capable of being suspended, reinterpreted, and revived according to evolving political, economic, or administrative needs.

Customs, through their temporal character that emphasizes immutability, continuity, and stability, functioned in the Ottoman social order not only as regulators of everyday practices but also as carriers of social identity and political legitimacy which hold a crucial position regarding the socio-political order. In this sense, the discourse of the “*kadîm*” was not merely a historical reference to the past; it also served as a temporal instrument that conveyed an impression of permanence and deeply

rooted tradition.⁴⁸⁸ Ottoman sultans frequently responded to emerging problems by appealing to “what has been practiced since ancient times,” thereby seeking to re-establish present order through the continuity of the past. When a situation arose that deviated from custom (*oligelene mugâyîr*), the preferred resolution often rested on the repetition of earlier precedents. In this way, political and social stability was reinforced through a temporal logic of continuity, which endowed customary practices with enduring legitimacy.

A concrete example of this tendency appears in an imperial decree dated April 5, 1571, concerning a disruption in the production standards of the *abâ*-makers’ guild in Filibe (Plovdiv).⁴⁸⁹ In his petition to the imperial center, the *nâzır* of Filibe reported that *abâs*, which had previously been produced at a standard length of twelve *zirâ*’s in accordance with what was recognized as *âdet-i kadîme*, were now being made at only eight or nine *zirâ*’s. Additionally, the *dirhems* used for weighing were said to be out of alignment with official standards—described as “*tamgasuz*,” meaning unstamped or unverified. This deviation was not regarded merely as a technical irregularity but as a violation of a longstanding professional order and a threat to public trust. To address the issue, the sultan issued a decree instructing the qadi of Filibe to ensure that *abâ* production returned to its customary measurements and that the weighing standards were restored by having the *dirhems* officially stamped in accordance with state regulations. This case demonstrates that *âdet* was not understood merely as an artisanal or traditional mode of practice, but as a normative framework that upheld

⁴⁸⁸ Ergenç, “Continuity and Change ...,” 559.

⁴⁸⁹ BOA, A.DVNS.MHM.d.12-460, H-10-11-978. “*Filibe kâdisına hüküm ki: Dergâh-ı Mu’allâm çavuşlarından olub Filibe Nâzırı olan; “abâcı tâyifesinün âdet-i kadîme üzre abâları on ikişer zirâ’ gelüb hâlâ sekiz ve tokuz zirâ’ gelür ve zirâ’ları ve ma’mûl olunan dirhemleri tamgasuz olub tamga lâzım olduğun” bildürmeğin buyurdum ki: Vusûl buldukda göresin; arzolunduğı gibi olub âdet-i kadîme muhâlif abâları eksük olub ve zirâ’ u dirhemleri tamgasuz ise kadîmden kaç zirâ’ idegelmişler ise abâların ol mikdâr işledüb ve zirâ’ u dirhemlerin dahi kânûn-ı kadîme üzre tamgaladasın.”*

social order, economic justice, and institutional stability. The call to restore *kadîm* measurements clearly illustrates how the Ottoman administrative order sought to re-establish present-day regulation through the perceived continuity and authority of the past.

Nevertheless, for a practice to be labeled as *âdet*, it must have been continuously repeated and remain alive in collective memory. Otherwise—if it is no longer repeated—the practice is eventually erased from communal recollection, marked as “dubious,” and loses its status as custom. Thus, a break in repetition signals not only a technical disruption in practice, but also a weakening of its normative authority. In such cases, new customs may come to replace the old, or the earlier custom may undergo transformation in order to regain social acceptance. In addition, if a custom has not been officially abolished through a formal decree, but its application has diminished or ceased in popular usage, its normative force gradually declines. Even if it does not entirely disappear, it begins to lose the authoritative weight it once held. Hence, the authority of a custom depends not solely on its antiquity, but also on its uninterrupted repetition. This supports the idea that normative boundaries are determined through repetition, and that the more frequently and persistently a practice is performed, the more legitimacy it acquires. In this sense, the strength and authority of a *kadîm* custom lie not only in its antiquity, but in its ability to be maintained without interruption.⁴⁹⁰

As Claudia Kickingler argues, a regulation does not have to have been in effect “since time immemorial” to be considered *kadîm*; what matters is that it has become a collectively accepted and legally recognized norm through repeated application and

⁴⁹⁰ Elsky, *Custom, Common Law ...*, 26

communal endorsement over time.⁴⁹¹ Kickinger develops this argument by drawing on Amnon Cohen's study of sixteenth-century Ottoman Jerusalem.⁴⁹² One of the examples Cohen examines concerns evolving regulations on the locations where Jewish goldsmiths could carry out commercial transactions. Although a designated "sultan's market" (*sûkü's-sultân*) existed in Jerusalem as early as the 1530s, many Jewish goldsmiths continued to conduct their business from shops scattered throughout the city.⁴⁹³ By the 1540s, however, members of the guild began to take oaths before the qadi, pledging to conduct all transactions exclusively within this central market.⁴⁹⁴ These commitments were repeated in archival documents from 1549 and 1557, where the qadi not only approved the arrangement but ordered that all goldsmiths relocate their operations to a designated commercial area. Nevertheless, shopkeepers who had existing rental contracts elsewhere were permitted to continue operating in those locations until their leases expired.⁴⁹⁵ Through repeated collective pledges, judicial oversight, and an evolving sense of communal obligation, this practice gradually transformed from an individual preference into a binding regulation. According to Kickinger, by the end of the sixteenth century, this arrangement had come to be described as a "custom preserved from the past."⁴⁹⁶ What had been, only three decades earlier, a fragmented and unregulated practice had—through repetition, legal sanction, and communal coordination—acquired the normative authority of a custom.⁴⁹⁷ This example thus demonstrates that even a practice without ancient origins

⁴⁹¹ Kickinger, "The Significance of Customary Law ...," 48.

⁴⁹² Kickinger, "The Significance of Customary Law ...," 48–49; citing Cohen, *Jewish Life under Islam*, 164, based on Sijills, Archives of the Muslim Court of Jerusalem.

⁴⁹³ Cohen, *Jewish Life under Islam*, 164.

⁴⁹⁴ Cohen, *Jewish Life under Islam*, 164.

⁴⁹⁵ Kickinger, "The Significance of Customary Law ...," 48–49, citing Cohen, *Jewish Life under Islam*, 164, based on *Archives of the Muslim Court of Jerusalem*, sijill vols. 1, p. 22; 14, p. 264; 22, p. 223; 31, p. 550; and 33, pp. 140–45; I have personally checked Cohen's narrative, though the original *sicils* were not accessible during the research period of this thesis.

⁴⁹⁶ Kickinger, "The Significance of Customary Law ...," 48–49.

⁴⁹⁷ Kickinger, "The Significance of Customary Law ...," 49.

may attain the status of *‘âdet-i kadîme* if it is sustained through repetition, reinforced by social consensus, and legitimized through imperial recognition and temporal language. Moreover, the examples and theoretical approaches reveal that the temporal character of *‘âdet* is constructed not only through historical continuity but also through the way time is spoken about and written into legal and administrative discourse. In this sense, *kadîm*-ness (*immemoriality*) derives its force less from factual historicity and more from an impression of continuity projected backward from the present.⁴⁹⁸ As Carol J. Greenhouse observes, such temporal constructions render law “all-timed”: the past, present, and future are layered into a single temporal frame in which norms acquire the appearance of universal and neutral authority.⁴⁹⁹

In this framework, the invocation of *kadîm* does not merely point backward toward the past; it also conveys a normative claim to continuity that shapes the present and extends into the future. The frequent appearance of phrases such as “*kadîmü’z-zamândan berü*” (since ancient times) in Ottoman documents does not simply depict *‘âdet* as a historical relic, but rather installs it as a norm that governs both the present and the future. As Kaarlo Tuori has observed in the context of common law: “What is ancient is not the content, but its uninterrupted continuity.”⁵⁰⁰ Law is like a river; what matters is not exactly what the water is, but that it never stops flowing.”⁵⁰¹ This analogy clearly illustrates that the emphasis on antiquity in Ottoman discourse was less about the specific content of a practice and more about the legitimacy derived from its ongoing repetition and temporal expressions. Moreover, the recurrent use of temporal references to *‘âdet-i kadîme* functioned as a safeguard against oblivion, because

⁴⁹⁸ Elsky, *Custom, Common Law ...*, 33; Greenhouse, “Just in Time ...,” 1640.

⁴⁹⁹ Greenhouse, “Just in Time ...,” 1642.

⁵⁰⁰ Kaarlo Tuori, “The Law and Its Traditions,” *Scandinavian Studies in Law* 48 (2005): 495.

⁵⁰¹ Tuori, “The Law and Its Traditions,” 495.

practices not recorded were liable to be forgotten. Thus, the temporal expressions used to describe *‘âdet* in Ottoman texts do not merely serve to recall or represent the past—they function to validate, preserve, and project a given practice into the future. In this sense, *‘âdet* emerges not only as a historical category but as a form of temporally constructed authority.⁵⁰²

5.1.2 Validation and Recognition: How *‘Kadîm’* Was Affirmed through Communal and Imperial Means

While the authority of *‘âdet-i kadîme* was often grounded in temporal continuity and repetition, this alone did not suffice to render a practice unquestionably ancient. There were other ways of defining and justifying custom besides its old age. In many cases, the status of being *kadîm* had to be actively claimed, proven, and recognized—not merely assumed. Validation occurred through a combination of communal memory, oral testimony, imperial decrees, and judicial court decisions, which together conferred normative weight upon particular practices. Actors such as guild leaders, litigants, and local communities strategically mobilized these tools to affirm the antiquity of certain customs. In this context, a custom was often narrated through formulas such as “*kadîmden berü olgelmiştir*,” defended against innovations by declaring them “*kadîme muhâlif*,” “*‘âdete mugâyir*,” and codified in court records, imperial edicts, or fiscal registers to formalize its normative authority. Being *‘âdet-i kadîme* in the early modern Ottoman empire, in this sense, was not always a verifiable

⁵⁰² Hak Kim, *Custom, Law, and Monarchy* ..., 45.

historical fact but a temporal status produced and authenticated through communal and imperial validation. This sub-section explores how *‘âdet-i kadîme* was not only practiced but also performed, contested, and institutionalized, revealing the fluid boundary between custom as lived tradition and custom as legal and political category.

An imperial decree dated April 23, 1571, offers a revealing example of how claims to “*kadîm*” status—invoking a practice’s ancient and continuous existence—not merely assumed but actively investigated and validated through legal and administrative procedures in the early modern Ottoman Empire. This case, involving a dispute between Muslim and Christian communities in Jerusalem, illustrates the evidentiary standards and institutional mechanisms by which such claims were evaluated, particularly in conflicts over religious property.⁵⁰³

The dispute centered on a *masjid* allegedly built by Muslims adjacent to the Musallebe Church in Jerusalem, which had, over time, been incorporated into the

⁵⁰³ BOA, A.DVNS.MHM.d.12-644, H-17-10-978. “*Şâm beğlerbeğisine ve Şâm kâdisına ve Kudüs-i Şerîf kâdisına hüküm ki: Sâbıkâ Şâm Kâdisı olan Mevlânâ Mehmed Südde-i Sa‘âdetüm’e mektûb gönderüb; “bundan akdem emr-i şerîf vârid olub; “Şâm müftîsi ile varub; “Kudüs-i Şerîf’de Musallebe nâm kenîseye muttasıl yirde müslimânlar mescid ittihâz eyledüklerinden sonra kefare girü kenîseye ilhâk eylediler.” deyü müslimîn da‘vâ idüb husûs-ı mezbûr görölüb emr-i şer‘-ı kavîm ne ise icrâ olundukdan sonra vâkı‘u’l-hâli arzidesin.” deyü fermân olunmağın müşârun-ileyh Şâm kâdisı ile Kudüs-i Şerîf’e varılıp livâ-i mezbûr beği Muhammed dâme izzühü ile ve Kâdisı Mevlânâ Muslihuddîn dâmet fezâyilühü ve ahâlî-i mısırdan cemm-i gafîr ile mezbûr kenîsenün üzerine varılıb mahall-i nizâ‘da mihrâb mevcûd ü âşikâre olub ve sakfında dahı zamân-ı sayfda namâz kılmak için bir mihrâb bulunub ba‘dehû husûs-ı mezbûr müdde‘î olanlardan Vâ‘iz Emîr dimekle ma‘rûf Seyyid Yahyâ ve İmâdüddîn nâm azîzler ve kenîsede bulunan kıssîşler ve re‘îsleri olan Berâye nâm râhib ihzâr olunub husûs-ı mezbûr tefahhus olundukda müslimânlar tarafından tokuz yüz yetmiş bir senesi târîhından sûret-i sicill ibrâz olunub nazar olundukda târîh-ı mezbûrda Kâdî olan Mevlânâ Nûrullâh mahzarında mezbûr İmâdüddîn husûs-ı mezbûrî mukaddemâ da‘vâ eyledükde münâze‘un-fih olan mevzi‘ mescid-i müslimîn olub kadîmden içinde namâz kılınageldüğü udûl-i müslimîn şehâdetleriyle sâbit olub kâdî-i mûmâ-ileyh dahi mescid olmasına hükmeyledüğü mastûr bulunub sicill-i mezbûr kıssîşlere mahzarında okundukda; “Mazmûnı ma‘lûmumuz değıldür; ol zamân kenîsede gayri kıssîşler var idi, biz hâzır değıldük.” didüklerinde müslimânlardan cemm-i gafîr şehâdetleriyle sicill-i merkûmun mazmûnı alâ-vechi’l-husamâ sâbit oldukdan sonra kemâ-kân mescid olmasına hükmolunub ba‘dehû; “Mescid-i mezbûrun kankı pâdişâh zamânında vaz‘ olunub ve târîhi yazılıb kapısında konılan taşı kefare çıkarub pâreleyüp ihfâ eylemişlerdür.” deyü istimâ‘ olunmağın zikrolunan taşun pâreleri mezbûrlardan taleb olunub getirildükde mezkûr taş pâre pâre olup ba‘zı pâreleri dahi zâyi‘ olmağla cümle mektûb olan kırâ‘at olunmağa mecâl olmayub ancak besmele-i şerîfe ile ol zamân pâdişâhınun ba‘zı elkâbı ve târîhinin ba‘zı yirleri okunub bu vechile dahi keferenün mekr u hadî‘aları zâhir oldukda vâkı‘-ı hâl ale’t-tafsîl yazılıb müslimânlara temessük olmağçün virildüğün” bildürmiş. İmdi; zikrolunan mescide min-ba‘d kefereyi dahlitdirmeyüb müslimânlara zabtitdürilüp kemâ-kân mescid olmak üzere hükm idüb ikâmet-i salevât itdüresiz; emr-i şerîfüme mugâyir kimesneye iş itdürmeyesiz.*

church complex by local Christians. In response, members of the Muslim community initiated a legal complaint. As the decree recounts, a prior imperial command had instructed Mehmed, the former *qadi* of Damascus, to conduct an inquiry into the matter and to deliver a ruling in accordance with Islamic law, to be reported to the imperial center. In compliance with this order, Qadi Mehmed—accompanied by the governor of Jerusalem, Muhammad; the current *qadi* of Jerusalem, Muslihuddîn; and a large group of notables from Egypt (*cemm-i gâfir*)—proceeded to Jerusalem to undertake an on-site inspection of the contested building.

During their investigation, they revealed the presence of a prayer niche (*mihrâb*) inside the building, along with a second *mihrâb* situated on the roof, reportedly used for summer prayers. The inquiry further included the summoning of several Christian representatives: Shaykh Yahyâ (also known as Vâiz Emir), two monks named Imâdüddîn, the resident priests of the church, and their superior, a clergyman named Berâye. Meanwhile, the Muslim litigants submitted a copy of a judicial court record (*sûret-i sicil*) dated 971 AH (1563/64 CE), indicating that Imâdüddîn had previously brought the same matter before the court. That earlier ruling, issued by Qadi Nurullah, was based on the testimony of trustworthy Muslim witnesses (*‘udûl-i muslimîn*) and had affirmed that the site in question was a longstanding Muslim *masjid*, where prayers had been continuously performed “since ancient times” (*kadîmden berü*). Upon hearing the contents of this document read aloud, the Christian clerics responded by disclaiming knowledge, stating that they had not been serving in the church during the earlier period.

Following the testimony of the “*cemm-i gâfir*” who had accompanied the *qadi* to Jerusalem, regarding the contents of the 971/1563-64 court record, it was decreed that the structure in question be formally recognized once again as a Muslim *masjid*

maintaining its former status *kemâ-kân*— “as it had always been.” One particularly significant detail in the decree concerns a stone inscription reportedly mounted above the *masjid*’s entrance. This inscription, said to include the name of the reigning sultan and the founding date of the structure, had allegedly been broken into fragments by members of the Christian community, with several pieces lost. Nonetheless, when the surviving pieces were examined, they were found to contain partial readings of the basmala, portions of the sultan’s titlature, and fragments of the date. These remnants were interpreted as corroborating the building’s Islamic origins. The qadi interpreted the destruction of the inscription as an intentional act of deception, designed to obscure the structure’s historical identity as a *masjid*. In light of these findings, the sultan issued a definitive ruling at the conclusion of the decree, ordering that the building’s status as a *masjid* be reaffirmed without question, and explicitly forbidding any future Christian intervention at the site.

This case vividly illustrates that appeals to *kadîm* status in the Ottoman context were not accepted on rhetorical grounds alone, but instead subjected to a multilayered process of verification. As the investigative procedures in the 1571 decree demonstrate, the legitimacy of a practice—here, the continuous use and existence of a *masjid*—was not presumed solely on the basis of its being labeled “*kadîm*.” Rather, such status had to be substantiated through multiple, interrelated forms of evidence. The confirmation of *kadîm* claims involved a constellation of sources: verbal invocations of tradition by the litigants; physical indicators such as architectural features (e.g., *mihrabs*) or epigraphic remnants (e.g., the stone inscription); earlier documentary records (in this case, the 971/1563–64 court register); the testimony of individual witnesses (*‘udûl-i müslimîn*); and collective attestations provided by larger communal delegations (*cemm-i gâfir*). All of these were jointly assessed to determine

whether the asserted practice could be legitimately anchored in the past. This evidentiary approach suggests that in the Ottoman legal-administrative framework, invoking historical continuity was insufficient on its own. A claim to antiquity required corroboration—through documentation, observation, and testimony—to construct a credible image of unbroken tradition. In this sense, *kadîm* was not simply a temporal label but a status that had to be actively performed and successfully demonstrated. Only when this performance—both rhetorical and evidentiary—was persuasive could a practice acquire the normative and legal authority associated with *‘âdet-i kadîme*.

In the early modern Ottoman Empire, customs were predominantly transmitted through oral rather than written means. Each *kadîm* practice demarcated a normative boundary by drawing continuity from a specific moment in the past into the present. In this sense, the past functioned not merely as a referential guide but as a binding source of authority that actively shaped present-day norms and expectations. As such, the confirmation of a practice’s authenticity conferred normative force upon it. When a dispute arose, the resolution often hinged on how similar cases had been handled historically; the past served as both precedent and prescription.⁵⁰⁴ Once a practice was verified as *kadîm* and sanctioned by the sultan, it could acquire the status of binding custom within the realm of customary law. This reveals that custom was not simply a residual experience of the past, but rather an active normative framework through which legitimacy was continuously produced. The legal and social validity of a custom did not derive from its antiquity alone, but from its successful passage through a process of institutional scrutiny and communal recognition. This process not only

⁵⁰⁴ Elsky, *Custom, Common Law ...*, 33.

enhanced the authority of the practice in question but also solidified its acceptance within the wider social order.

The account provided by Karaçelebizâde Abdülaziz Efendi (d.1658) clearly illustrates that practices considered *kadîm* in the Ottoman context were subject to historical amnesia and that their legitimacy often depended less on actual continuity than on selective recollection. The ceremonial appointment of the *şeyhülislâm*—marked by the symbolic act of kissing the sultan’s hand in the Imperial Council (*Divân-ı Hümayun*) and being honored with a sable fur—was, according to Karaçelebizâde, an established “Ottoman law” (*Kânûn-ı Osmânî*). However, following the tenure of Yahya Efendi, this tradition was abandoned; by the time of Behâyî Efendi’s appointment some forty years later, the ritual had become unfamiliar even to members of the imperial council. When Karaçelebizâde asked a grand vizier, “When will your mufti be made to kiss the hand?” the vizier responded with astonishment, “Do viziers and muftis kiss hands in the Imperial Council?”, expressing disbelief at what had become an obsolete and seemingly illegitimate custom. Ultimately, the existence of this forgotten *âdet* could only be proven through the testimony of Defterdâr İsmail Pasha and the Chief of the Gatekeepers (Kapu Ağası).⁵⁰⁵ This example reveals that practices deemed *kadîm* were legitimized not solely through their uninterrupted observance, but through their preservation in collective and bureaucratic memory. In this sense, what qualified a practice as *kadîm* was not necessarily its actual historical continuity, but rather its retrievability and verifiability through witness and recollection.

⁵⁰⁵ Karaçelebizâde Abdülaziz Efendi, *Ravzatü’l-Ebrâr Zeyli (Tahlil ve Metin)*, rev. Nevzat Kaya (Ankara: TTK, 2003), 58.

Similarly, Stephanie Elsky has demonstrated that, in early modern England, courts did not simply presume the validity of a local custom on the basis of its claimed antiquity; rather, they engaged in procedural evidence-gathering to determine its legal standing.⁵⁰⁶ This suggests that the recognition of a custom required more than merely invoking its *kadîm* status—it had to be substantiated through demonstrable attributes such as origin, durability, and continuity over time. According to Elsky, both lower and higher courts in the common law system assessed the legal status of a given practice primarily through the lens of its consistency and persistence across generations.⁵⁰⁷ Similarly, medieval jurists sought to determine whether a given practice constituted a custom not solely by examining its origin or content, but by assessing the duration and frequency of its repetition.⁵⁰⁸ In this way, time became an objective criterion in the formation of custom. On one hand, the temporal dimension of custom functioned as a means of confirming its historical rootedness; on the other, once a custom was accepted as *kadîm*, it often became an unassailable source of normative authority.⁵⁰⁹ In this regard, temporal references found in Ottoman archival documents—such as “*kadîmden berü*” or “*oligelmiş*”—served a similar legitimizing function. When a sultan or qadi formally acknowledged a practice as *‘âdet-i kadîme*, they not only affirmed its legal and social validity but also reinforced its persistence and shielded it from obsolescence. Thus, claims to *kadîm* status in the Ottoman context were not accepted solely as rhetorical gestures; they were subjected to institutional scrutiny and had to withstand evaluative tests within both legal and communal frameworks. However, it should be noted that although the temporal roots of custom gave it

⁵⁰⁶ Elsky, *Custom, Common Law* ..., 24.

⁵⁰⁷ Elsky, *Custom, Common Law* ..., 24.

⁵⁰⁸ Herzog, “Immemorial (and Native) Customs ...,” 20.

⁵⁰⁹ Iurlaro, *The Invention of Custom* ..., 31.

authority, it was this very longevity that made it powerful: as the saying goes, “long-standing custom and usage are of no mean authority.”

A decree dated February 8, 1570, addressed to the qadis of Babaeski and Burgaz, provides a vivid example of how claims to *kadîm* status were substantiated through physical investigation and communal verification.⁵¹⁰ The decree concerns the planned transfer of ownership of seven parcels of land in the Babaeski district to Grand Vizier Mehmed Pasha. To determine the boundaries of these lands, an official from the imperial court (*Dergâh-ı Mu‘allâ*), named Yahşî, was appointed to oversee the process. The document offers detailed instructions for how these boundaries—described explicitly as those in force “since time immemorial” (*kadîmü’l-eyyâm’dan berü*)—were to be identified and recorded. Yahşî was ordered to physically inspect each parcel of land, to walk the terrain, and to consult reputable and trusted local informants (*mu‘temeddün ‘aleyh kimesneler*) to determine how the boundaries had historically been defined. If discrepancies were found between the current demarcations and the historically accepted ones, Yahşî was instructed to restore the older, *kadîm* boundaries as the authoritative limits. Once the investigation was complete, each boundary’s starting and ending points were to be recorded in writing and submitted to the imperial center. These findings would form the basis for the issuance of an official *sınırnâme*

⁵¹⁰ BOA, A.DVNS.MHM.d.9-144, H-07-10-977. “Babaeski ve Burgaz kadılarına hüküm ki: Babaeski kazâsına tâbi ‘Döğenciâbâd nâhiyesinde zemîn-i Alî Fâkîh ve zemîn-i Murâdiyye ve zemîn-i Müfettiş ve zemîn-i Sâlih ve zemîn-i Timur-bâri ve zemîn-i İbrâhîm ile yine nâhiye-i mezbûra tâbi ‘sinden birinden nısf zemîn ki cümle yedi kut ‘a zemîn olup, zikr olunan zemînler düstûr-ı ekrem Vezîriazam Mehmed Paşa edâma ‘llâhü te ‘âlâ iclâlehü ‘ya temlik olunub, hâlen mezbûrların ta ‘yîn ve temeyyüz olmak lâzım olmak lâzım olmağın Dergâh-ı mu‘allâm çavuşlarından Yahşî zîde kadruhû ta ‘yîn olunup buyurdum ki: Vardukda cümle güzidân kalkub zikr olunan zemînlerin üzerine varub, ol yerin mu‘temedün aleyh kimesnelerin ihzâr idüb, her zemînin kadîmü’l-eyyâmdan ‘amel olnagelen muhtâr sınırları ne mahaldendir görüb, kadîmî sınırının üzerine yürüyüb, muhtâr ve mu‘aayyen sınırları ma ‘lûm idinüb, dahi kadîmden ma ‘mülûn-bih sınırlarından murûr-ı eyyâmla tebdîl ve tagayyür olmuş yerleri varsa girü kadîmî sınırları üzerine yer yer ‘alâmetler vaz’ idüb, her birin sınırı ne yerden ne mahalle müntehî olursa mufassal yazub, defter idüb, sicill idüb, sûret-i sicillerin ahz idüb, südde-i sa ‘âdetime gönderesin ki ana göre sınurnâme-i hümayûnum virile. Ammâ bir vechile Hakk üzre dikkat ve ihtimâm ile mukayyed olup, temeyyüz ve mu ‘ayyen eyleyesiz ki sonradan bir kimesne gelüb benim yerimden yer aldılar, te ‘addi itdiler deyü iddi ‘â itmek ihtimâli olmaya.”

(land-boundary charter) by the sultan. A particularly noteworthy feature of this document is its emphasis on procedural diligence: Yahşî was explicitly instructed to carry out his duties with the utmost care and integrity—*hakk üzere dikkat ve ihtimâm ile mukayyed olub*. The reason for this insistence is also stated in the decree: to prevent future disputes in which individuals might claim that the boundaries were incorrectly drawn and that their property rights had been violated.

This document is particularly significant in demonstrating that the rhetoric of *kadîm* was not merely a historical reference or symbolic claim, but rather a normative framework subject to empirical verification. In the imperial decree, Yahşî was not only instructed to conduct a site visit, but also to investigate the material traces of the historically accepted boundaries—those said to have existed “since time immemorial”—and to corroborate these findings through consultation with trustworthy members of the local community. The validity of *kadîm* boundaries, in this context, was not affirmed solely through written documentation but also through oral testimony embedded in collective memory and through physical inspection of the landscape. Moreover, the requirement for precise boundary demarcation served as a form of legal precaution—intended to preempt future claims of dispossession or boundary disputes. The sultan’s directive to act “with diligence and accuracy” (*hakk üzere dikkat ve ihtimâm ile*) reveals a strong administrative concern for procedural legitimacy and social stability. Thus, this case illustrates how the normative authority attributed to *‘âdet-i kadîme* in the Ottoman context was grounded in practices of testimonial confirmation and spatial verification. The performative aspect of reestablishing boundaries—through walking the land, engaging local witnesses, and visually tracing historical lines—underscores how Ottoman custom was enacted and validated through layered processes of legal, communal, and material substantiation.

However, the mere longevity or uninterrupted continuity of a practice was not, in itself, sufficient for it to be recognized as *‘âdet-i kadîme* in the Ottoman context. In order to attain such status, a practice also had to be voluntarily embraced by the community that observed it and not be in clear contradiction with other prevailing legal or moral norms.⁵¹¹ In other words, antiquity alone did not render a custom valid; it had to intersect with broader normative values such as contentment, reasonableness, and public interest and utility.⁵¹² Yanna Yannakakis, in her study of colonial Mexico, identifies three foundational principles for the legitimation of custom: repetition over time, communal contentment, and service to the common good.⁵¹³ According to Yannakakis, for a practice to be acknowledged as a valid custom, it must not only have been maintained over time but must also be perceived as fair, binding, and conducive to the collective welfare of the society in which it operated.⁵¹⁴ Similarly, Francesca Iurlaro argues that the validity of a custom should not rest solely on its antiquity, but also on clear indicators of communal acceptance—particularly in matters of serious and shared concern.⁵¹⁵ Viewed through this lens, the normative force of *‘âdet-i kadîme* in the early modern Ottoman Empire stemmed largely from its perceived emergence as an organic normative order—formed not by top-down imposition but through bottom-up collective repetition and tacit acceptance.⁵¹⁶ One of the key mechanisms underpinning this process was tacit contentment (*zîmnî mutâbakât*). This concept refers to situations in which individuals or communities adopt a practice not through explicit approval, but through its sustained repetition, silence, or unopposed enactment over time. Customs that were silently embraced and repeatedly enacted came to be

⁵¹¹ Elsky, *Custom, Common Law ...*, 27.

⁵¹² Kuskowski, “The Time of Custom ...,” 157.

⁵¹³ Yannakakis, *Since Time Immemorial ...*, 32.

⁵¹⁴ Yannakakis, *Since Time Immemorial ...*, 32.

⁵¹⁵ Iurlaro, *The Invention of Custom ...*, 71–72.

⁵¹⁶ Iurlaro, *The Invention of Custom ...*, 114.

seen not merely as habitual behaviors, but as morally and legally binding norms—integral to the ethical fabric and legal consciousness of Ottoman society.⁵¹⁷

At this point, it becomes evident that the relationship between a custom's antiquity and its normative force was reciprocal rather than unidirectional. On the one hand, a practice perceived as ancient gained normative authority due to its historical continuity; on the other, the collective belief in its binding nature helped reinforce its perceived antiquity.⁵¹⁸ In the Ottoman context, this binding status was often not verified through formal documentation, but rather articulated through specific linguistic formulations that appeared regularly in legal and administrative records. Phrases such as "*kadîmden berü*" ("since ancient times"), "*olıgelmiş*" ("established custom"), or "*mu 'tâd olub*" ("habitually practiced") signaled not only a temporal depth but also reflected a broader social consensus regarding the legal and moral legitimacy of a given practice.⁵¹⁹ These formulaic expressions thus indicated that a particular custom had evolved beyond mere habit, becoming internalized as an expected and necessary component of social order.⁵²⁰ Indeed, the consistent appearance of such language in both judicial court registers and imperial decrees reveals that customs were not only practiced in everyday life, but were also regarded by the state and the public as legitimate, just, and aligned with principles of the common good. The extent to which a practice was embedded in collective memory was directly tied to its normative authority. In this sense, references to temporal continuity served not merely to assert a practice's age but to confirm its social entrenchment, perceived legitimacy, and practical relevance. The validation of customs through such temporal expressions

⁵¹⁷ Elsky, *Custom, Common Law ...*, 33; Watson, "An Approach to Customary Law," 564.

⁵¹⁸ Iurlaro, *The Invention of Custom ...*, 71-72; Hak Kim, *Custom, Law, and Monarchy ...*, 44-45; Watson, "An Approach to Customary Law," 563.

⁵¹⁹ Kicking, "The Significance of Customary Law ...," 21.

⁵²⁰ Iurlaro, *The Invention of Custom ...*, 31.

reveals the layered nature of their authority—rooted simultaneously in historical longevity, collective assent, and the pursuit of communal benefit.

Moreover, the validation of a practice also required that the practice serve the public good and align with broader conceptions of communal benefit.⁵²¹ The authority of *kadīm* was thus rooted not merely in habitual repetition but in its perceived conformity with divine order and collective welfare.⁵²² As previously discussed, the Islamic principle of “*emr bi’l-ma’rūf*”—enjoining what is right—obliged the ruler to affirm practices that the community regarded as good and just. In this framework, the recognition of customs as valid was not only a matter of legal or administrative sanction but also one of religious and moral legitimacy. The idea of the common good (*maslahat-i āmme*) emerged as both the clearest expression of collective assent and one of the most decisive criteria in the confirmation of custom. The sultan’s role in reinforcing socially accepted practices—by protecting, institutionalizing, or codifying them—served as a crucial mechanism through which customs were not only preserved but officially recognized as *kadīm* and thereby normatively binding.⁵²³

For this reason, the category of *kadīm* encompassed not only temporal depth but also a layered framework of legitimacy that included social contentment, rationality, and communal benefit. Yannakakis emphasizes that the mere antiquity of a practice was insufficient for it to attain the status of custom; rather, repeated performance, practical rationality, and broad social acceptance were the decisive elements of validation.⁵²⁴ In this sense, the legitimacy of a custom rested not only on its age, but on its ability to be defended through plausible reasoning and demonstrable

⁵²¹ Iurlaro, *The Invention of Custom* ..., 71–72.

⁵²² Iurlaro, *The Invention of Custom* ..., 73.

⁵²³ Iurlaro, *The Invention of Custom* ..., 72.

⁵²⁴ Yannakakis, *Since Time Immemorial* ..., 32–33; Thompson, *Customs in Common*, 97.

utility.⁵²⁵ Similarly, Iurlaro and Kim argue—drawing from Roman legal tradition—that the recognition of custom required more than popular acceptance; it had to conform with divine law, ecclesiastical norms, and prevailing moral principles.⁵²⁶ These frameworks reinforce a key feature of Ottoman *‘âdet*: not every old practice was valid simply because of its antiquity. On the contrary, a practice’s compatibility with sharia or with *kânûn* enacted by the sultan, its capacity to be justified on rational grounds, and its alignment with the common good were all critical conditions for its recognition as *‘âdet-i kadîme*. As discussed earlier, in areas where Islamic law remained silent, the sultan’s authority enabled the formal recognition of such customs as part of the empire’s normative order. At the same time, it is important to note that a practice did not always need to be in continuous circulation to be acknowledged as *kadîm*. If it could be shown to be rational, beneficial, and tacitly accepted by the community, it could still acquire the status of a valid custom—highlighting once again the flexible and multifaceted nature of customary legitimacy in the Ottoman context.

The normative authority of custom was also shaped by institutional processes of validation in which state officials played an active role.⁵²⁷ In this sense, custom represented a dual normative structure—emerging from “below” through communal claims and simultaneously acquiring legitimacy from “above” through official recognition. For a practice to be accepted as *‘âdet-i kadîme*, it was not enough for it to be historically entrenched; it also had to undergo a form of filtration through the lens of state interests, particularly in relation to the maintenance of political and social order. As numerous archival examples reveal, the sultan’s direct involvement in questions of custom often entailed not only affirming historical continuity but also

⁵²⁵ Iurlaro, *The Invention of Custom* ..., 25–26.

⁵²⁶ Hak Kim, *Custom, Law, and Monarchy* ..., 48; Iurlaro, *The Invention of Custom* ..., 24–25.

⁵²⁷ Premo, “Custom Today ...,” 362; Watson, “An Approach to Customary Law,” 566.

assessing whether a given practice aligned with the contemporary needs and perceived public interest of the empire. Therefore, customs deemed compatible with imperial governance and societal welfare were formally ratified, while those considered harmful or disruptive were suppressed or removed from circulation.

A particularly illustrative case appears in a decree issued on December 1, 1579, addressed to the voivode of Moldavia.⁵²⁸ The document notes that it had become a *custom* in Moldavia for newly appointed voivodes to execute the family members and retainers (*tevâbi*) of their predecessors. The sultan, referring to his reign as one characterized by justice (*‘adâlet-makrûn*), unequivocally rejects the continuation of such a practice, declaring that he does not consent to any form of unjust violence. Instead of allowing local executions, he orders that any individuals deemed criminal be detained and sent to Istanbul for proper judgment. This decree highlights that a practice, even if widely regarded as customary within a specific province or administrative context, was not automatically considered legitimate or sustainable. On the contrary, its validity could be reassessed and revoked by the central authority, based on principles of justice, utility, and public order.

Thus, custom in the Ottoman Empire was not merely a grassroots phenomenon rooted in communal practice and memory. It was also a subject of ongoing negotiation, subject to the intervention and oversight of the state. The boundaries of what could be recognized as *‘âdet* were actively defined by imperial authority, which reserved the right to confirm, regulate, or abolish customs in accordance with broader political and

⁵²⁸ BOA, A.DVNS.MHM.d.39-28, H-11-10-987. “Boğdan voyvodasına hüküm ki: Bundan akdem vilâyet-i Boğdan’a yeni voyvoda olanlar sâbıkâ olan voyvodanın tevâbî’in katl eyledikleri i’lâm olunmağın min-ba’d zikr olunan ‘âdet ref’ olunup eyyâm-ı hümayûn-ı ‘adâlet-makrûnumda kimesneye te’addî olmağa rızâ-yı hümayûnum yokdur buyurdum ki: Vardukda Âsitâne-i Sa’âdet’ümden olan ‘ubûdiyyet ve rikkıyyetin muktezâsınca ol ‘âdeti ref’ eyleyüp min-ba’d kimesneye te’addî etdirmeyüp anın gibi re’âyâdan ve gayriden katl ve yahûd sâ’ir siyâset icâb ider harami olanları yarâr âdemler ile mukayyed ve mahbûs Âsitâne-i Sa’âdet’üme irsâl eyleyesin.”

moral imperatives. This dual character of custom—as both lived tradition and administratively sanctioned norm—was central to its legal and social function within the empire. A comparable dynamic can be observed in the context of Spanish colonial law. As Yannakakis notes, the Laws of Burgos drew a distinction between different forms of Indigenous customs: ritual dances, which did not pose a threat to public order, were tolerated, while practices such as polygyny were explicitly prohibited.⁵²⁹ This example illustrates that the legitimacy of custom was not derived solely from its historical continuity but was also subject to reinterpretation based on contemporary moral, political, and ideological standards. In this framework, the process of validating custom did not merely involve identifying which practices had persisted over time; it also entailed selecting and legitimizing those deemed desirable in light of present conditions. As Kim has argued, early modern monarchies did not recognize customary practices as valid merely because they were ancient; their validity also depended on their perceived compatibility with the public good.⁵³⁰ This pragmatic approach transformed the validation of custom into a multilayered process shaped by political discretion, ethical judgments, and ideological imperatives. It highlights how the category of *‘âdet-i kadîme* was not simply the product of communal memory or historical repetition, but also a function of state endorsement and administrative preference. In the Ottoman context, as in colonial Spanish America, custom functioned simultaneously as a bottom-up expression of social continuity and as a top-down mechanism of normative governance.

The normative authority of a custom in the early modern Ottoman context was also depended significantly on its recognition within judicial records.⁵³¹ In cases of

⁵²⁹ Yannakakis, *Since Time Immemorial* ..., 36.

⁵³⁰ Hak Kim, *Custom, Law, and Monarchy* ..., 15.

⁵³¹ Hak Kim, *Custom, Law, and Monarchy* ..., 47.

legal disputes—particularly among guilds—invoking the antiquity (*kadîm*) and temporal continuity of a given practice (*‘âdet-i kadîme*) became a powerful means of legitimizing claims. Indeed, a close reading of Ottoman archival documents reveals frequent references to formulaic expressions such as “*matakaddemden*,” “*oligelen ‘âdet muktezâsınca*,” or “*uslûb-ı sâbık üzere*,” especially in conflicts between guilds. When such claims were substantiated by the qadi through witness testimony, written documents, or local knowledge, the disputed practice would be formally acknowledged and acquire binding status in the eyes of the court. Thus, appeals to antiquity were not merely rhetorical devices; they were discursive tools that, once affirmed through judicial validation, acquired normative force within the archival and legal sphere.

Claudia Kicking, drawing on a case study analyzed by Haim Gerber, highlights the intricacies of this process.⁵³² In 1674, a contract drafted by the silk dyers’ guild in Bursa—stipulating that raw silk should be distributed to guild members in rotation—was ratified by the local qadi.⁵³³ However, in subsequent years, the silk merchants contested the practice, presenting witnesses who testified that while similar privileges existed in other Bursa guilds, the silk dyers had no such customary entitlement. Gerber interprets this case as an instance in which guild members sought to legitimize an innovation (*bid‘at*) by retroactively framing it as an established tradition.⁵³⁴ In this reading, the qadi’s approval functioned more as a notarial acknowledgment than as a conferral of full legal binding force. Yet this ratification did not render the custom unquestionable.⁵³⁵ Rather, the case illustrates how the validation

⁵³² Kicking, “The Significance of Customary Law ...,” 21–22.

⁵³³ Haim Gerber, *Economy and Society in an Ottoman City: Bursa, 1600–1700* (Jerusalem, The Hebrew University, 1988), 44.

⁵³⁴ Kicking, “The Significance of Customary Law ...,” 22; Gerber, *Economy and Society* ..., 44.

⁵³⁵ Kicking, “The Significance of Customary Law ...,” 22–23.

of custom in the Ottoman judiciary relied heavily on oral testimony, communal memory, and the strategic invocation of precedent. Every claim to *kadîm* status could be—and often was—challenged in court. Only when the asserted continuity was supported by credible evidence and remained uncontested by opposing parties did it gain juridical authority. As Iurlaro similarly argues, custom does not derive its legitimacy merely from social consensus but must be subjected to processes of deliberation, scrutiny, and formal recognition.⁵³⁶ In this light, custom emerges not simply as a product of repetition but as a normative structure shaped by testimony, contestation, and legal validation.

As E. P. Thompson has observed, certain customs were sometimes preserved solely within the memories of the elderly, and such oral testimony was accepted as a valid means of verifying a custom's legitimacy.⁵³⁷ Even in the sixteenth century, when written legal systems dominated in Europe, a claim that a practice constituted a custom could still be substantiated through oral testimonies provided by members of the relevant community.⁵³⁸ In such cases, claims to *kadîm* status were not constructed around mythical or undocumented antiquity but were instead anchored in socially remembered events and experiences transmitted across generations.⁵³⁹ In this sense *immemoriality* was both a category of proof and measure of time. González de Torneo's 1587 notarial manual provides a striking example of how *immemoriality* was formally attested through layered testimony.⁵⁴⁰ His insistence that witnesses should not only report their own personal experiences but also relay intergenerational hearsay reflects a broader legal culture that accepted collective memory in the absence of

⁵³⁶ Iurlaro, *The Invention of Custom* ..., 73.

⁵³⁷ Thompson, *Customs in Common*, 4–5.

⁵³⁸ Herzog, "Immemorial (and Native) Customs ...," 24.

⁵³⁹ Premo, "Custom Today ...," 362.

⁵⁴⁰ Herzog, "Immemorial (and Native) Customs ...," 36.

documentary evidence.⁵⁴¹ Notably, however, Torneo also drew a critical boundary: if a practice could be traced to a specific individual or historical moment, it could no longer be classified as immemorial.⁵⁴²

A comparable emphasis on collective memory and intergenerational testimony can be observed in the early modern Ottoman context, where the validation of *‘âdet-i kadîme* often relied on similar forms of oral transmission and social continuity. In the early modern Ottoman context as well, customs derived legitimacy not only from written documentation but also from the collective memory embedded in oral narratives and intergenerational transmission. Phrases such as “this has been done since the time of our fathers and grandfathers” (*atadan, babadan böyle gelmiştir*), even when unsupported by archival evidence, functioned almost like the judgment of a historian, serving as proof of antiquity and as instruments of legal validity. In this regard, communal memory operated as a mechanism of verification, one that confirmed the perceived continuity of a practice and thereby reinforced its normative authority. This framework demonstrates that *immemoriality* was not merely an archival designation but also a discursive and performative construct—produced through acts of speech, remembrance, and embodied tradition.⁵⁴³ Accordingly, Ottoman archival records frequently reveal that litigants seeking to establish the legitimacy of a practice turned to the testimony of elderly individuals—often described as “*iẖtiyâr*,” “*pîr*,” or “*m̱üsinṉ kimesneler*.” The memories of these individuals were not viewed as personal recollections alone, but rather as a form of socially sanctioned temporal knowledge. As such, their testimony constituted one of the primary tools by which the continuity of a practice “since ancient times” (*kadîmden berü*) could be substantiated.

⁵⁴¹ Herzog, “Immemorial (and Native) Customs ...,” 36–37.

⁵⁴² Herzog, “Immemorial (and Native) Customs ...,” 36–38.

⁵⁴³ Premo, “Custom Today ...,” 362.

Kickinger has argued that the presentation of a particular arrangement as an “old custom” was often sufficient for qadis to recognize it as valid.⁵⁴⁴ According to her, especially in the context of intra- and inter-guild agreements, when a practice was claimed to be of long-standing tradition and no party came forward to challenge the proposed regulation, the courts generally accepted it unless explicitly contested.⁵⁴⁵ Her theory actually finds resonance in European context. According to Herzog, in European legal thought, *immemoriality* often represented not an actual historical depth but rather a presumption designed to compensate for the lack of evidence.⁵⁴⁶ It was accepted without the possibility of rebuttal because no one could remember or substantiate when the practice had originally begun.⁵⁴⁷ Herzog further notes that medieval jurists maintained that if a practice was already considered immemorial, external proof was unnecessary.⁵⁴⁸ In this framework, *immemoriality* did not depend on identifying a precise point of origin but instead presumed the legitimacy of a practice based on its long-standing repetition without public objection. Similarly, Herzog argues that in the sixteenth-century European context, a right that had been exercised without objection over a long period was no longer subject to scrutiny; time itself rendered the practice legitimate, eliminating the need to explain its original source.⁵⁴⁹

Although customs were often described as old or ancient in the Ottoman context, such descriptions did not reflect an automatic or unconscious veneration of the past. As anthropologist Bronislaw Malinowski argues that it cannot be assumed

⁵⁴⁴ Kickinger, “The Significance of Customary Law ...,” 29.

⁵⁴⁵ Kickinger, “The Significance of Customary Law ...,” 29.

⁵⁴⁶ Herzog, “Immemorial (and Native) Customs ...,” 27.

⁵⁴⁷ Herzog, “Immemorial (and Native) Customs ...,” 27.

⁵⁴⁸ Herzog, “Immemorial (and Native) Customs ...,” 27.

⁵⁴⁹ Herzog, “Immemorial (and Native) Customs ...,” 26.

that traditional societies obey all customs automatically.⁵⁵⁰ Therefore, Kicking's interpretations stand in contrast to a considerable number of Ottoman archival documents, which reveal the frequent use of formal investigations (*tefahhûs*) aimed at verifying whether a given practice truly possessed *kadîm* status. These inquiries often involved soliciting the testimony of local notables, inspecting physical locations, reviewing earlier documentation, and subjecting litigants' statements to cross-examination. Such procedures demonstrate that qadis did not routinely accept *kadîm* claims at face value but instead frequently engaged in systematic verification processes. Moreover, in many cases, the initiation of these investigations was not left to the discretion of the qadi alone but came at the direct instruction of the sultan. This evidences that the judiciary was not merely a local mechanism for dispute resolution but an institutional extension of the central state's involvement in the validation of customary practices. Given that decisions issued by qadis had binding legal consequences for the parties involved, the confirmation of *kadîm* status became not only a matter of social consensus but also one of political and institutional authority.

Nevertheless, it is important to recognize that the assertion of a practice as *kadîm* in court did not automatically guarantee legal success. If opposing interests emerged or if one party challenged the antiquity of the custom, such claims could be rejected. This indicates that assertions of *kadîmlik* always functioned as performative claims—subject to scrutiny and validation rather than unquestioned acceptance. Still, Kicking's broader insight into the operation of tacit consensus (*zımnî mutabakat*) at both the social and institutional levels should not be dismissed outright. Indeed, certain practices—if uncontested, continuously repeated, and embedded in collective

⁵⁵⁰ Bronislaw Malinowski, *Crime and Custom in Savage Society* (New York, NY: Kegan Paul, Trench, Trubner & Co, 1926), 63–64.

acceptance—could effectively attain the status of custom even without formal recognition by the courts or state institutions. This suggests that the authority of custom was not solely derived from legal documentation but also emerged from lived social practices and their perceived continuity. In this light, the legitimacy of *‘âdet* in the Ottoman context was frequently constituted through the dual forces of grassroots social acceptance from below and administrative validation from above.

A decree dated August 3, 1560, concerning a dispute over the designated market day in the village of İlsu, located in the district of Göl, provides a compelling illustration of the procedural mechanisms through which a practice’s claim to being *kadîm* was verified in early modern Ottoman governance.⁵⁵¹ According to the document, an earlier imperial order held by the village inhabitants had established Friday as the designated market day. However, over time, this arrangement came under criticism for negatively impacting the surrounding mosques—particularly by dispersing the congregations attending Friday prayers. As a result, a new ruling was issued that moved the market day to Wednesday. Nonetheless, two local individuals later secured a fresh imperial decree—though the means of its issuance remain unclear

⁵⁵¹ BOA, A.DVNS.MHM.d.3-1402, H-10-11-967. “*Kadıasker Efendi arz itmişdir. Kastamonu begine ve kadısına hüküm ki: Hâliyâ sen ki sancakbegisin, ... [left empty in the document] kadısı ile Dergâh-ı mu‘allâ’ma mektûb gönderüp Göl kazâsında İlsu nâm karye halkı yedinden hükm-i şerif vârid olub, bâzârı cum‘a gün durmağla etrâfında olan cevâmî‘a idlâl virüb ulemâ ve sulehâ mektûbı ile çihâr-şenbih gün durmak için hükm-i şerif virilmiş iken, iki nefer kimesne bir tarîk ile girü cum‘a gün ikâmet olunmak için hükm-i hümayûn ihrâc idüb, girü idlâl mukarrerdür deyü çihâr-şenbih gün durmasın recâ idüb imdi, bu husûsı a‘yân-ı vilâyetden teftîş idüb her kangı gün münâsib ise ta‘yîn idüb arz eylesin, deyü buyurulmağın vilâyet-i mezbûre a‘yânından tefahhus olındukda karye-i mezbûrede bâzâr cum‘a gün durmağla fi‘l-vâkı‘ etrâfında olan câmi‘ler mu‘attal olup beş-on âdem ile cum‘a namâzı kılınđu sâbit ü zâhir olup bâzâr çihâr-şenbih günü veya gayrıda olıcak kasaba-i mezbûrede iki yüz yıllık kadîm câmi‘-i şerîfün cemâ‘atine noksân gelüb bâzâr, cum‘a gün olmağla tahminen dokuz yüz âdem namâza hazır olup gayrı günde olsa cum‘a namâzına altmış-yetmiş âdem hazır olup ve re‘âyâdan cemm-i gafîr gelüp: “Bâzârımız cum‘a gün olmayıcak kış ü kârımuza ve ma‘îşetimüze küllî zarar u ziyân olub müzâyaka çekilüb bize hayfđur” didüklerin arz eylemişsin. Buyurdum ki: Bu husûsı onat vehile tefahhus eyleyüb göresin; bâzârları kadîmü‘l-eyyâmdan kangı günde duragelmışdür ve câmi‘ eski câmi‘ olup etrâfda olan câmi‘ler hâdis midür, nicedür? Mufasssal yazub arz eylesin.”*

in the document—reinstating Friday as the market day, which again provoked opposition on similar grounds.

In response to this renewed controversy, the sultan instructed the governor and the qadi of Kastamonu to investigate the matter by consulting local notables (*a'yan-ı vilâyetden teftîş idüüb*). Their inquiry revealed that when the market was held on Friday, the congregational capacity of surrounding mosques was significantly diminished; in some instances, Friday prayers were performed with only ten to fifteen attendees. Conversely, other testimonies noted that relocating the market day to a weekday would weaken the congregation of a nearly two-hundred-year-old mosque in the town center and that many local subjects believed the economic livelihood of tradesmen would be adversely affected. The sultan's final decree mandated a thorough investigation to determine not only which day the market had historically been held since time immemorial, but also whether the mosque referred to as “ancient” predated the surrounding newer mosques. This document thus demonstrates that the label *kadîm* was far more than a rhetorical invocation of historical depth—it was a dynamic normative status subject to rigorous scrutiny through documentation, oral testimony, collective memory, spatial comparison, and the principle of public benefit. The legitimacy of a practice designated as *kadîm* hinged not simply on the claim of antiquity, but on the ability of that claim to withstand empirical investigation and social contestation. Accordingly, this case illustrates that in Ottoman legal and administrative practice, *kadîm* was not a fixed or absolute category. Rather, it was a flexible designation shaped by social negotiation, reevaluation, and ultimately by the sultan's sovereign authorization.

To sum up, taken together sections 4.1.1 and 4.1.2 have demonstrated that the recognition of a practice as *'âdet-i kadîme* in the early modern Ottoman Empire was

neither the product of mere historical longevity nor the outcome of rhetorical appeal alone. Rather, it was the result of a multilayered process in which continuity, repetition, communal memory, and institutional validation intersected to produce a complex and dynamic form of normativity. Temporal expressions did not merely refer to an undefined past; they functioned as discursive tools that anchored practices in collective memory, rendering them morally compelling and legally binding. Yet antiquity alone did not suffice. For a custom to acquire full normative authority, it also had to align with broader values such as communal contentment, practical utility, and compatibility with both religious and administrative norms. Validation, therefore, emerged through a dual process: from below, through tacit contentment and embodied repetition within society; and from above, through judicial rulings, imperial decrees, and administrative scrutiny. This dual movement reveals that *‘âdet-i kadîme* was not a fixed relic of the past, but a performative, negotiated, and contextually adaptable framework—actively shaped by legal actors, political authorities, and local communities alike.

Crucially, this negotiation was not only material or institutional—it was also linguistic. The authority of custom was often sustained less through direct evidence of antiquity than through the strategic use of temporal expressions that evoked continuity, conveyed stability, and projected legitimacy. The following section turns to these rhetorical constructions, analyzing how phrases like *kadîmden berü* or *kadîmü ’l-eyyâm* functioned as powerful devices for embedding custom in time, even when its origins remained ambiguous.

5.2 Temporal Language and the Rhetoric of Antiquity

In the early modern Ottoman Empire, the legitimacy of custom often hinged on how time was invoked. Temporal expressions—such as “*kadîmden beri*” (“since ancient times”), “*oligeldiği üzere*” (“as it has long been done”), or more specific phrases like “*babam derdi*” (“my father used to say”)—did not simply describe historical depth; they constructed it. These formulations functioned as rhetorical tools that made customs appear continuous, rooted, and authoritative—even when their origins were uncertain or undocumented.

This section argues that such temporal references did not reflect objective antiquity but shaped how the age and legitimacy of a practice were imagined and communicated. Drawing on Özer Ergenç’s typology, the analysis distinguishes between vague metaphorical phrases and more concrete chronological markers. Crucially, ambiguity was not a flaw in these expressions—it was a strength. By avoiding fixed dates or clear historical proof, vague references allowed actors to assert continuity while sidestepping scrutiny. At the same time, more specific references—invoking fathers, ancestors, or set time spans—offered narrative anchors that embedded custom within intergenerational memory.

The focus here is not on the deliberate reinvention of custom—a theme explored in the next section—but on how temporal rhetoric framed certain practices as self-evidently legitimate. Whether fluid or fixed, these expressions shaped the perception of custom as something inherited, enduring, and thus binding.

5.2.1 Ambiguous and Flexible Temporal Expressions

Among the most frequently encountered temporal expressions related to custom in early modern Ottoman archival sources are phrases such as “*kadîmden berü*,” “*eskiden berü*,” and “*oligeldiği üzere*”—formulations that evoke a timeless memory, deep and undefined past (time immemorial) without anchoring it to a specific historical moment.⁵⁵² While lacking chronological precision, these expressions did not diminish in rhetorical or normative power; on the contrary, their ambiguity constituted a key discursive strategy. This sub-section contends that the rhetorical vagueness of such expressions was not a narrative shortcoming, but a deliberate mechanism for constructing customary authority through temporal elasticity. Rather than referring to a clearly defined span of time, these expressions constructed a flexible narrative of continuity that embedded practices within the realm of collective memory and customary legitimacy.

Before analyzing these expressions in detail, it is essential to clarify the conceptual framework of ambiguity as it operated in early modern Ottoman and Islamic discursive contexts. Since ambiguity constitutes the very mechanism through which temporal references gained their normative power, unpacking its rhetorical function is central to understanding how custom was legitimized in the absence of precise chronology. Unlike the modern tendency to associate ambiguity with conceptual deficiency or lack of clarity, early modern legal and political discourses often embraced it as a productive feature of normative language. In the case of temporal expressions related to custom, this discursive openness allowed for claims of

⁵⁵² Herzog, “Immemorial (and Native) Customs ...,” 35; Kuskowski, “The Time of Custom ...,” 153.

continuity and antiquity without the constraints of empirical dating. Ambiguity, in this context, was not merely tolerated but instrumental. It served to evoke a sense of legitimacy rooted in the past, while remaining adaptable to present needs. The following discussion explores how such rhetorical ambiguity functioned as a key mechanism in constructing the authority of *‘âdet-i kadîme*.

This dynamic is particularly evident in the typology developed by Özer Ergenç, who classifies temporal expressions related to custom into three categories: (1) vague references to deep continuity, (2) intergenerational expressions rooted in dynastic lineage, and (3) quantified durations tied to social memory. This sub-section focuses on the first category as the basis for understanding how temporal ambiguity was mobilized to sustain and legitimize the normative authority of *âdet-i kadîme*. While this analysis centers on the legitimating role of vague temporal language, it should be noted that some scholars have critiqued the discourse of *kadîm* for its capacity to mask innovation under the guise of continuity—a point that will be taken up in more detail in Section 5.3.

Before examining how vague temporal expressions such as *kadîmden berü* or *kadîmü’l-eyyâm* functioned in early modern Ottoman discourse, it is essential to reconsider what “ambiguity” means and how it has been perceived across historical and intellectual contexts. In his seminal work, William Empson famously defined ambiguity as “an indecision as to what you mean, an intention to mean several things, a probability that one or other or both of two things has been meant, and the fact that a statement has several meanings.”⁵⁵³ In modern thought, however, ambiguity often carries a negative connotation—associated with contradiction, confusion, imprecision,

⁵⁵³ William Empson, *Seven Types of Ambiguity* (London, UK: Chatto and Windus, 1949), 21.

and epistemological uncertainty. From this perspective, ambiguity is typically seen as a deficiency to be eliminated through empirical verification, standardized language, and precision.⁵⁵⁴ Yet ambiguity should not be taken for granted; even the smallest nuance may open space for alternative interpretations within the same discourse.⁵⁵⁵

In contrast, classical Islamic thought viewed ambiguity not as a flaw but as an inherent and even necessary feature of divine revelation and human understanding.⁵⁵⁶ Rather than striving to eliminate ambiguity, Muslim scholars acknowledged its dual nature—productive and potentially misleading—and treated it as something to be interpreted and managed, not eradicated.⁵⁵⁷ Shahab Ahmed, for instance, emphasizes that the Qur'an and hadith literature are replete with layered meanings, contradictions, and open-ended formulations that invite a range of interpretive engagements. In his model of *Pre-Text*, *Text*, and *Con-Text*, Ahmed argues that these multiple levels of meaning, namely hidden, actual, and interpretative meanings, enable a rich hermeneutic tradition wherein the ambiguity of a statement becomes a source of theological and cultural depth.⁵⁵⁸ Far from being a symptom of failure, ambiguity in this context allows texts to transcend the limits of literal interpretation. It opens up a space for meta-textual analysis and deeper semantic engagement, ultimately anchoring meaning in broader epistemological and metaphysical frameworks.

Levine argues that “the fact that ambiguity was cultivated in so many forms in many traditional cultures suggests that ambiguous expressions serve several social and

⁵⁵⁴ Anthony Ossa-Richardson, *A History of Ambiguity* (Princeton University Press, 2019), 27-28.

⁵⁵⁵ Ossa-Richardson, *A History of Ambiguity*, 4.

⁵⁵⁶ Thomas Bauer, *Müphemlik Kültürü ve İslam: Farklı Bir İslâm Tarihi Okuması*, trans. Tanıl Bora (İstanbul: İletişim Yayınları, 2019), 32.

⁵⁵⁷ Bauer, *Müphemlik Kültürü ve İslam ...*, 50.

⁵⁵⁸ Shahab Ahmed, *What is Islam?: The Importance of Being Islamic* (Princeton: Princeton University Press, 2016), 345–363.

cultural purposes.”⁵⁵⁹ As he cautions, one must be critical before endorsing the modern project of eradicating ambiguity without reservation.⁵⁶⁰ Such discursive openness was not confined to theological or literary realms but extended into early modern Ottoman administrative and legal practice. In a world that lacked the fully standardized and quantified systems characteristic of modern bureaucratic rationality, ambiguity was not necessarily a flaw; rather, it could enable a form of governance attuned to regional variation and local practice. One telling example is the unit of weight measurement known as *müdd*, used to quantify dry goods such as grain in the Ottoman empire.⁵⁶¹ While it ostensibly denoted the amount that two hands could hold, its actual value varied significantly across regions.⁵⁶² Ottoman legal codes did not attempt to eliminate this variability; instead, they codified distinct local versions—such as the “Bursa *müddü*” or the “Ankara *müddü*”—thereby institutionalizing diversity as a mode of pragmatic accommodation.⁵⁶³ This plurality of standards was not an anomaly but reflected a broader administrative logic in which flexibility and contextual appropriateness took precedence over rigid uniformity.

Functional ambiguity likewise characterized the Ottoman Empire’s measurement systems, extending beyond weight to include length, volume, and

⁵⁵⁹ Donald N. Levine, *The Flight from Ambiguity: Essays in Social and Cultural Theory*, (Chicago: The University of Chicago Press, 1964), 24.

⁵⁶⁰ Levine, *The Flight from Ambiguity* ..., 24.

⁵⁶¹ Cengiz Kallek, “Müdd,” in *TDV İslâm Ansiklopedisi*, accessed March 26, 2024, <https://islamansiklopedisi.org.tr/mud>.

⁵⁶² Kallek, “Müdd.”

⁵⁶³ For example, in her study on the history of Şebinkarahisar in the fifteenth and sixteenth centuries, Fatma Acun stated the value of *müdd* as 513,2 kg based on the equations 1 Istanbul *kiles* = 25,656 kg, 1 *müdd* = 20 Istanbul *kiles*. On the other hand, Halil İnalçık determined the amount of *müdd* as 20 *kile*, which corresponds to 500 kg. On the regional variability of units of measurement in the Ottoman Empire, see Yunus Koç, “Zirai Tarih Araştırmalarında Ölçü-Tartı Birimleri Sorunu: Bursa Müdü Örneği,” in *Uluslararası Kuruluşunun 700. Yıldönümünde Bütün Yönleriyle Osmanlı Devleti Kongresi*, 7–9 Nisan 1999, ed. Alaaddin Aköz, Bayrak Ürekli and R. Özcan (Konya: Selçuk Üniversitesi Yayınları, 2000), 541–547; Fatma Acun, *Ottoman Administration in the Sancak of Karahisar-ı Şarki (1485–1569): An Analysis on Tahrir Defters* (Ph.D. thesis, University of Birmingham, Centre for Byzantine, Ottoman and Modern Greek Studies, 1993); Cengiz Kallek, “Kile,” *Türkiye Diyanet Vakfı İslâm Ansiklopedisi*, vol. 25 (Ankara: Türkiye Diyanet Vakfı, 2002), 568–571; İnalçık, “Adaletnâmeler,” 49–145.

spatial-temporal perception. The empire's vast geography—encompassing diverse imperial legacies and regional traditions—fostered a multiplicity of systems shaped by local usage and historical precedent. This plurality did not signal disorder but reflected a pragmatic logic in which variation was normalized and codified. Many units—such as “*kadem*” (foot), “*kariş*” (span), “*parmak*” (finger), and “*kulaç*” (fathom)—lacked uniformity due to their anthropometric basis.⁵⁶⁴ For example, the “*arşın*” (*zira* ‘ in Arabic), defined as the distance from the elbow to the tip of the middle finger, varied by region, period, and even individual physiology.⁵⁶⁵ Ottoman legal codes acknowledged this by distinguishing between variants such as the *mi‘mâr arşını* (architect's cubit) and the *çarşı arşını* (market cubit), indicating that this variability was not incidental but institutionally recognized.⁵⁶⁶ Though seemingly imprecise by modern standards, such embodied systems proved practical precisely because they allowed for measurement without external instruments, relying instead on the body as an immediate and commonly intelligible reference.

A similar mode of ambiguity shaped temporal and spatial perception. Rather than using standardized temporal units, distance was often expressed in terms of travel days—a fluid metric contingent on terrain, climate, season, and the traveler's pace.⁵⁶⁷ From a modern standpoint, this introduced a degree of imprecision. Yet contemporary observers, such as the sixteenth-century German traveler Hans Dernschwam (d. 1568), noted the striking accuracy with which both Ottoman officials and ordinary subjects could estimate the distance between towns and provinces using such time-based

⁵⁶⁴ Cemal Çetin, “Osmanlılarda Mesafe Ölçümü ve Tarihî Süreci,” in *Tarihçiliğe Adanmış Bir Ömür: Prof. Dr. Nejat Göyünç Armağanı*, ed. Hasan Bahar (Konya: Selçuk Üniversitesi, 2013), 445–46.

⁵⁶⁵ Çetin, “Osmanlılarda Mesafe Ölçümü ...,” 446–47.

⁵⁶⁶ Çetin, “Osmanlılarda Mesafe Ölçümü ...,” 446–47.

⁵⁶⁷ Çetin, “Osmanlılarda Mesafe Ölçümü ...,” 448.

markers.⁵⁶⁸ This reliance on temporally ambiguous yet experientially grounded indicators reflects a broader epistemological orientation—one in which shared, context-sensitive knowledge carried greater practical value than abstract uniformity.

This multifaceted understanding of ambiguity—as a culturally accepted, rhetorically productive, and institutionally embedded feature of early modern governance—should not be equated with a lack of meaning. On the contrary, it offers crucial context for interpreting temporal expressions in Ottoman archival discourse. Rather than aiming for empirical precision or chronological exactitude, the Ottoman state frequently employed vague temporal markers such as “*kadîmden berü*” or “*kadîmü’l-eyyâm*” to convey continuity, legitimacy, and customary authority. Just as premodern units of measurement—such as “*müdd*,” “*arşın*,” or travel days—functioned without fixed standardization yet maintained internal coherence and practical utility, so too did these temporal expressions operate as meaningful rhetorical devices anchored in shared cultural understandings. Analyzing such expressions thus requires a fundamental reconceptualization of ambiguity—not as a deficiency in historical accuracy, but as a strategic rhetorical and epistemological mode shaped by the organic transmission of custom through individual and collective memory. Interpreting ambiguity as conceptual failure risks obscuring the mechanisms by which early modern Ottoman actors articulated time, authority, and tradition through deliberately open-ended language. Grasping the meanings these expressions carried—and the temporal imagination they evoked—demands moving beyond modern assumptions of clarity and fixity. Instead, ambiguity must be understood as a constitutive feature of how time and custom were framed within the Ottoman world.

⁵⁶⁸ Hans Dernschwam, *İstanbul ve Anadolu’ya Seyahat Günlüğü*, trans. Yaşar Önen (Ankara: Kültür Bakanlığı Yayınları, 1992), 51; Çetin, “Osmanlılarda Mesafe Ölçümü ...,” 448.

This conceptual framework sets the stage for a closer examination of how temporally ambiguous expressions functioned in Ottoman discourse, beginning with the typological classification developed by Özer Ergenç.

According to Ergenç's influential typology, the first category of temporal expressions used to describe *'âdet-i kadîme* includes seemingly vague and metaphorical phrases such as "*kadîmden berî*" ("since time immemorial"), "*ez-kadîm*" ("from the ancient past"), "*kadîmü'l-eyyâmdan*" ("from ancient days"), "*matakaddemden*" ("from earlier times"), and "*oligeldiği üzere*" ("as it has been practiced").⁵⁶⁹ Ergenç argues that such expressions reflect a form of remembered continuity in social practice—referring to customs whose precise origins had faded from individual memory but continued to persist within collective experience.⁵⁷⁰ In other words, these formulations were typically used to describe practices that were coded in social memory as "the way it has always been." Building on this typology, Karateke further emphasizes that the perceived origin of a custom—especially when linked to a sacred or inaccessible authority—can elevate its normative power, shielding it from critique and change.⁵⁷¹ This belief removes the custom from the realm of rational debate and cloaks it in a shield of historical inviolability.⁵⁷² Their imprecision, however, should not be mistaken for lack of meaning; rather, it signals a different regime of temporal signification. On the contrary, he maintains that these expressions provide valuable insight into how notions of continuity and change were conceptualized.⁵⁷³ Even when they do not specify the exact point at which a practice became customary, they signal a recognized temporality grounded in long-standing

⁵⁶⁹ Ergenç, "Continuity and Change ...," 558.

⁵⁷⁰ Ergenç, "Continuity and Change ...," 558.

⁵⁷¹ Karateke, "Osmanlı Devletinde ...," 121.

⁵⁷² Karateke, "Osmanlı Devletinde ...," 121.

⁵⁷³ Ergenç, "Continuity and Change ...," 558.

repetition. Ergenç observes that such phrases were commonly used to denote practices that emerged not through abrupt institutional change but through gradual and organic transformation.⁵⁷⁴ Their authority stemmed from accumulated repetition rather than identifiable origin.

In this context, an imperial decree dated May 7, 1560 and addressed to the qadi of Medina offers a compelling example of how seemingly vague temporal expressions could, in certain contexts, refer to a clearly defined time interval and signal both historical continuity and disruption.⁵⁷⁵ According to the document, a letter from the *beylerbeyi* of Egypt reported that the charitable donations (*sadaka*) collected at the Prophet's Mosque (*Mescid-i Nebevî*) had been distributed equally among the custodians serving in the *Ravzâ-i Serîfe* as a form of salary since ancient days (*kadîmü'l-eyyâm*)—a practice said to have continued for over 300 years (*üç yüz yıldan mütecâviz*). Recently, however, this long-established arrangement had been discontinued for unspecified reasons, leading to discontent among the service personnel. In response, the sultan instructed the qadi of Medina to explain the origins of the practice, indicate how long it had been in place, identify the reason for its cessation, and clarify whether the change had occurred upon his own request, asking that a detailed report be submitted to the imperial center.

What makes this archival document particularly significant is its explicit assertion that a practice referred to by the otherwise ambiguous expression *kadîmü'l-*

⁵⁷⁴ Ergenç, "Continuity and Change ...," 558.

⁵⁷⁵ BOA, A.DVNS.MHM.d.3-1062, H-07-08-967. "*Medîne-i Münevvere [kâdi]sına hüküm ki: Mısır beglerbegisi mektûb gönderüb kadîmü'l-eyyâmdan Medîne-i Münevvere'de Ravza-ı Şerîfe'nün istihdâm olunan huddâmına etrâf ü cevânibden vârid olan sadakât-ı Müslimîn ve hasenât cem' u tahsîl olunup üç yüz yıldan mütecâviz imiş ki, huddâm-ı mezbûrîn mâ-beynlerinde tevzî' u taksîm idiüb vech-i ma'âşlarına sarf olunur iken bir tarîk ile Âstâne'ye arz olunub ref' olunmağla mezbûrîn kemâl-i mertebe münkeshirü'l-hâl oldukların arz eylemiş. İmdi, buyurdum ki: Bu husûsun aslı nedür? Ne zamândan berü alınmışdır, bâ'is nedür? Senün arzün ile mi olmuşdur? Mufasssal bu husûsı arz idesin.*"

eyyâm had, in fact, persisted for over three centuries. While the document states that the practice had been in place for more than 300 years, this figure should not be interpreted as a precise chronological measurement. Rather, it reflects an approximate span grounded in collective memory—a perceived antiquity shaped by the long-standing repetition and social endurance of the custom. In this sense, the reference to a 300-year duration points not to an empirically verifiable origin date, but to the depth of historical consciousness surrounding the practice. The invocation of such a timeframe strongly suggests that the custom predated the Ottoman period, likely extending back to the Mamluk era or even earlier. In other words, the Ottomans may have inherited the practice from the Mamluks, who themselves may have been reproducing a tradition rooted in an even more distant past. Moreover, although the document does not disclose the outcome of the investigation or the sultan's final decision, the case suggests that the disruption of such a long-standing practice was not perceived merely as an administrative lapse. Rather, it was perceived as a potential threat to both the temporal continuity and the historically rooted social order it embodied—thus signaling a broader rupture within an otherwise stable socio-political framework. In this sense, *kadîmü'l-eyyâm* served not as an empty rhetorical formula, but as a discursive device denoting deeply rooted temporal continuity and long-established legitimacy in the communal memory.

While the imperial decree of 1560 ties the phrase *kadîmü'l-eyyâm* to a specified duration, not all uses of temporal vagueness in Ottoman discourse were accompanied by such quantification. In many instances, it was precisely the lack of a defined origin that endowed these expressions with rhetorical and normative power. What makes temporal ambiguity significant is its ability to merge the past with the present, showing that customs are not merely remnants of a historical time but practices that continue to

shape the present.⁵⁷⁶ This principle is clearly articulated in the *Kânûnnâme* of Süleyman I, which declares: “*Kadîm kırk elli yıla denmez, kadîm oldur ki anın evvelini kimse bilmeye*” (“One does not call something ‘ancient’ merely because it has existed for forty or fifty years; what is ancient is that whose origin no one knows”).⁵⁷⁷ In this context, the unknowability of origins is not portrayed as a weakness, but as the defining criterion for establishing both the historical continuity and the contemporary legitimacy of past practices—whether this unknowability results from genuine historical forgetting or is strategically constructed through discursive means. As Stephanie Elsky observes, custom “conceptualizes time in a way that confounds sequence by looking back to a period before memory while insisting on no origin point at all.” This insight offers a crucial theoretical foundation for understanding how temporal ambiguity functions as a source of normative authority.⁵⁷⁸ By refusing to identify a clear starting point, antiquity constructs a form of continuity that resists historical scrutiny while reinforcing legitimacy.⁵⁷⁹ In this way, the unknowability of a practice’s origins is not a deficiency, but precisely what makes it appear natural, enduring, and unquestionable.

The ambiguous temporal expressions created the impression that a given practice had been passed down from an indeterminate but deeply rooted past—thus rendering it unquestionable, binding, and naturalized as a social norm. Invocations of *kadîmlik* (*immemoriality*) reflect how the existing order constructs its legitimacy through a claimed continuity with the past. As Karateke has argued, the fading or erasure of a practice’s historical origins may, in fact, enhance its authority by placing

⁵⁷⁶ Elsky, *Custom, Common Law ...*, 33.

⁵⁷⁷ Karateke, “Osmanlı Devletinde ...” 119. See, Arıkan, “Divriği Sancağı ...,” 763; Şen, “Osmanlı Hukukunun ...,” 333.

⁵⁷⁸ Elsky, *Custom, Common Law ...*, 42.

⁵⁷⁹ Elsky, *Custom, Common Law ...*, 42–43.

it beyond the reach of scrutiny or revision.⁵⁸⁰ In this sense, the older a custom was perceived to be, the more historical weight and normative force it carried, precisely because its beginnings could no longer be pinpointed.⁵⁸¹ Similarly, Suraiya Faruqi has argued that in sixteenth and seventeenth centuries Ottoman society, appeals to the past—especially through expressions such as “*kadîm*” or “*kadîmü’l-eyyâm*”—constituted a powerful strategy for producing legitimacy.⁵⁸² This reflects how the Ottoman discourse of *kadîm* anchored legitimacy not in demonstrable origin, but in imagined antiquity and the uninterrupted continuity of repetition. Consequently, what mattered was not when a practice had actually begun, but how far back it was associated with the past in collective memory—a perception that enabled it to continue unchallenged and remain effective in the present.⁵⁸³ However, once its inception could be precisely dated, the practice would risk being seen as historically finite—and therefore, potentially dispensable.⁵⁸⁴

Building on this, Claudia Kicking has demonstrated that in intra- and inter-guild disputes adjudicated in Ottoman courts, invoking the antiquity of a practice served not merely as a chronological reference, but as a strategic assertion of its normative legitimacy and binding force.⁵⁸⁵ In such legal and administrative discourse, the rhetorical appeal to antiquity did not primarily emphasize the indeterminacy of the past, but rather worked to naturalize the custom as socially entrenched and institutionally authoritative.⁵⁸⁶ Similarly, Eunjeong Yi has shown that the repeated use

⁵⁸⁰ Karateke, “Osmanlı Devletinde ...,” 119.

⁵⁸¹ Karateke, “Osmanlı Devletinde ...,” 119.

⁵⁸² Suraiya Faruqi, “Political Activity among Ottoman Taxpayers and the Problem of Sultanate Legitimation (1570-1650),” *Journal of the Economic and Social History of the Orient* 35, no. 1 (1992): 5.

⁵⁸³ Tuori, “The Law and Its Traditions,” 495.

⁵⁸⁴ Elsky, *Custom, Common Law ...*, 33.

⁵⁸⁵ Kicking, “The Significance of Customary Law ...,” 21.

⁵⁸⁶ Kicking, “The Significance of Customary Law ...,” 21.

of the term *kadîm* in archival records formed part of a deliberate discursive strategy through which customary practices were framed as incontestable and foundational.⁵⁸⁷ Yi's comparative analysis of two guild agreements between the sherbet and snow merchants (*şerbetçiler ve karcılar loncaları*), dated 1619–20 and 1662, is particularly revealing: despite a fifty-year interval, the content of the agreements remained nearly identical—covering rules on sales, payments, and transportation—except for the price, which rose from 56 to 128 *akçes*.⁵⁸⁸ This near-verbatim repetition, despite the temporal gap, functioned as a textual performance of continuity.⁵⁸⁹ Through such linguistic reiteration, custom was not simply remembered or described; it was reactivated and reaffirmed as *'âdet-i kadîme*.

Taken together, these insights underscore that continuity was not solely a matter of uninterrupted practice over time, but also a product of discursive maintenance. The invocation of *kadîm* thus functioned as a rhetorical mechanism through which actors reinforced the authority of custom, even in the absence of a demonstrable origin. Temporal ambiguity, in this light, did not signal historical vagueness or fragility—it was a generative strategy that stabilized norms through repetition and recognition, both in practice and in text. This approach demonstrates that *'âdet* is legitimized through a discourse that connects it to an open-ended past—one whose beginning or end cannot be clearly identified—thereby constructing a sense of historical continuity without temporal fixity.⁵⁹⁰ In this way, it becomes possible to examine how *'âdet-i kadîme* discourse utilizes temporal references to generate an

⁵⁸⁷ Yi, *17. Yüzyıl İstanbul'unda ...*, 140.

⁵⁸⁸ Yi, *17. Yüzyıl İstanbul'unda ...*, 140.

⁵⁸⁹ Yi, *17. Yüzyıl İstanbul'unda ...*, 140.

⁵⁹⁰ Greenhouse, "Just in Time ...," 1640.

impression of impartiality and normative legitimacy, framing customary practices as inherently just by virtue of their perceived longevity and continuity.⁵⁹¹

An archival document dated August 30, 1564 illustrates how vague temporal expressions—despite lacking precise chronological markers—could nonetheless be interpreted as signaling a more definite duration and a deep sense of historical continuity when read in their specific context. This case demonstrates that such ambiguity functioned as a rhetorical device that reinforced normative legitimacy by invoking the authority of long-standing tradition. The edict, concerning the ritual fumigation (*tebhîr*) and purification (*tağsîl*) of the Ka‘ba, was issued in response to a letter from İbrahim, the official responsible for the waterworks (*suyolu hidmeti*) in Mecca.⁵⁹² In his report, İbrahim described the fumigation of the Ka‘ba with raw amber, oud, sandalwood, musk, and rosewater as a custom practiced annually “from ancient times” (*kadîmü’z-zamândan berü*) during the months of Ashura (*âşûr ayı*) and the Prophet’s birthday (*mevlûd*).⁵⁹³ Crucially, İbrahim noted that the financial cost of this

⁵⁹¹ Greenhouse, “Just in Time ...,” 1642.

⁵⁹² BOA, A.DVNS.MHM.d.6-90, H-22-01-972. “Ka‘be-i Mu‘azzama kâdîsı ile Cidde-i Ma‘mûre sancağı beğine hüküm ki: Hâliyâ Mekke-i Mükerrema’de suyolu hıdmetinde olan İbrâhîm dâme ulüvvuhû mektûb gönderüb; “Her senede mübârek âşûr ve mevlûd aylarında Beytu’llâh-i Şerîf’ün dâhilinde olan ferşi âb-ı zemzem ve gülâbla tağsîl ve ebhıra-i mu‘attara ile tebhîr olunmak kadîmü’z-zamândan âdet olub mîrî cânibinden ta‘yîn olunmuş nesne olmamağla fâtih-i Ka‘be olan kimesne bir mikdâr gülâb ve âb-ı zemzem ile tağsîl idüb her senede iki def‘a tağsîline yüz yiğirmi dirhem anber-i hâm ve yüz elli dirhem üd ve yiğirmi vukıyye sandal ve otuz dirhem misk ve kırk vukıyye gülâb kifâyet ider. İki yüz elli altun ta‘yîn olunursa zikrolunan mikdâr buhûr tamâm vefâ ider.” deyü i‘lâm eylemeğin buyurdum ki: Beytu’llâh-i Mutahhere’nün yılda iki def‘a tebhîr ü tağsîli için lâzım olan yüz yiğirmi dirhem anber-i hâm ve yüz elli dirhem üd ve yiğirmi vukıyye sandal ve otuz dirhem misk ve kırk vukıyye gülâbı sâl-be-sâl Cidde-i Ma‘mûre mahsûlinden alıvrüb masrafına iki yüz ve iki yüz elli altun mı olur mukarrer ü mü‘eyyed olmak üzere deftere kayd itdürüb her yıl zât-ı şerîfüm tarafından kendü ma‘rifetinüzle tebhîr u tağsîl itdüresin ki hıdemât-ı celîlesi sahâyîf-i a‘mâlîmüze sebt olmağla sa‘âdet-i sermedî müyesser olmuş ola; şöyle bilesiz ve bu hükm-i hümayûnumun sûretin sicill-i mahfûza kayditdüresiz ki, sizden sonra gelenler mazmûn-ı şerîfî ile amel idüb hılâfına cevâz göstermeyeler.”

⁵⁹³ It is worth noting that the continuity of the custom is attested in the document by İbrahim himself, who described it as having been practiced “from time immemorial.” Although imperial orders in the Ottoman Empire were typically issued in response to complaints or petitions, İbrahim’s invocation of the practice’s antiquity is particularly noteworthy. His characterization not only highlights the perceived longevity and uninterrupted nature of the custom, but also functions as a form of testimonial validation—underscoring its embeddedness within a longer temporal continuum. In this context, İbrahim serves as both an informant and a legitimating voice for the historical and customary status of the practice within the imperial framework.

ritual had traditionally not been covered by the imperial treasury (*mîrî cânibinden ta'yîn olunmuş nesne olmamağla*) and further suggested that an annual allocation of 250 gold coins would be sufficient to maintain the continuity of the practice. In response, the sultan ordered that the expense be covered from state revenues collected in *Cidde-i Ma'mûre*, and explicitly commanded that the ruling be recorded in the official register: “that those who come after you act in accordance with the content of this edict and allow no deviation from it” (*bu hükm-i hümayûnumun sûretini sicill-i mahfûza kaydittüresiz ki, sizden sonra gelenler mazmûn-ı şerîfi ile amel idüp hilâfına cevâz göstermeyeler*).

To begin with, a closer historical examination of the custom of fumigating and cleansing the Ka'ba reveals its deep-rooted significance and continuity. As early as the pre-Islamic period, this service was performed by the *Benî 'Abdü'd-Dâr* (sons of 'Abdü'd-Dâr) clan, one of the principal branches of the Quraysh tribe.⁵⁹⁴ Later in the Umayyad period, Caliph Mu'âviyye institutionalized the service by dispatching incense and officials during the Hajj season and the month of Receb—a tradition that was subsequently maintained by later caliphs.⁵⁹⁵ These accumulated layers of ritual continuity help explain why the 1564 imperial edict confidently employed the expression *kadîmü 'z-zamândan berü*, situating the Ottoman recognition of the practice within a sacred genealogy extending over a millennium. By labeling the practice with a temporally vague but rhetorically potent expression, the Ottomans reinforced its authority as a practice maintained since the ancient times. Although the document does not explicitly categorize the reimbursement of the expenses associated with this ritual as a customary obligation, the sultan's act of formally authorizing and

⁵⁹⁴ Sadettin Ünal, “Kâbe,” in *TDV İslâm Ansiklopedisi*, accessed April 11, 2025, <https://islamansiklopedisi.org.tr/kabe#1>.

⁵⁹⁵ Ünal, “Kâbe.”

institutionalizing the payment effectively inscribed an administrative endorsement of an ancient practice into the legal-bureaucratic framework. In doing so, it paved the way for this financial arrangement to gradually acquire the normative authority typically associated with *‘âdet-i kadîme*.

The second follow-up imperial order, dated 1570, addressed to Qadi Hüseyin, the *şeyhü’l-harâm* (chief custodian of the sanctuary) in Mecca, reaffirms the continuity of the Ka’ba’s fumigation by addressing a lapse in the financial provisions mandated by the earlier 1564 decree (H.972).⁵⁹⁶ According to Qadi Hüseyin’s report, the payments allocated for the incense had not been delivered for two consecutive years from the revenues of *Bender-i Cidde*, and the expenses were temporarily covered through borrowing. In response, the sultan ordered the full repayment of the debt and instructed that the future disbursements be made in accordance with the previous order (*hükm-i sâbık mücebince*). This explicit reference to the prior ruling demonstrates that the 1564 decree remained in effect six years later and was treated as a binding precedent, despite the fact that the practice was still not explicitly labeled as *‘âdet-i kadîme*. Crucially, the sultan did not propose a new financial arrangement or alter the existing procedure. Instead, he insisted on the faithful execution of the previously established method. This insistence reflects a broader administrative commitment to safeguarding the continuity of a practice associated with antiquity. Despite the financial burden it imposed, the continued observance of the practice suggests that it

⁵⁹⁶ Orhan Paşazade, “9 Numaralı Mühimme Defteri (977–978/1569–1570): Özet ve Transkripsiyon,” (unpublished master’s thesis, Marmara Üniversitesi, 2006), 74. Quoted from BOA, A.DVNS.MHM.d.9-169. “*Mısr beglerbegisine hüküm ki ve defterdârına hüküm ki: Mekke-i Mükerrreme’de şeyhü’l-harâm olan Kadı Hüseyin mektûb gönderüb, bundan akdem Beytullâh-ı şerîfin tebhîr ve tağsîli için anber-i hâm ve ûd ve cendel ve mâ-i verd bahâsı için, Bender-i Cidde mahsûlünden bir sene iki yüz elli altun virilmek için, dokuz yüz yetmiş iki Muharremi murabbahında hüküm-i hümayûn virilüb, hâliyâ iki senedir ki zikr olunan filori virilmediği ecilden, beşyüz filori istikrâzı olduğın bildirmeğin buyurdum ki: Hükm-i sâbık mücebince iki seneden berü zikr olunan inci bahâsı henüz virilmedi ise istikrâz olunan filoriyi bî-kusûr virüp, vecd-i emniyetlerine tenbîh eylesin ki; her sene emr olunan altunı kâim-i belde-i şerîfe teslim idüp, ta’cîz eylemiyesiz.*”

came to be perceived as obligatory precisely because both the original imperial order and its reaffirmation were discursively linked—through vague temporal language—to the authority of an ancient tradition. In other words, the invocation of an ambiguous temporal expression—such as “*kadîmü ’z-zamân*”—not only served to legitimize an existing practice by situating it within a distant past, but also extended that legitimacy to ancillary administrative decisions aimed at ensuring its continuation. In this way, vague temporal discourse did not merely anchor established customs in antiquity; it also facilitated the incorporation of new practices into the normative framework by rhetorically linking them to the authority of the past.

In conclusion, ambiguity in the early modern context did not signal a lack of meaning, but rather served as a flexible and functional tool within normative discourse. Temporally ambiguous expressions such as *kadîmü ’l-eyyâm* or *kadîmden berü* were not rhetorical placeholders, but strategic instruments of legitimization within Ottoman legal and administrative discourse. They conferred an aura of antiquity without the need for historical verification, allowing actors to assert continuity even in the face of change. As demonstrated by both the 1560 and 1564 decrees, such formulations functioned as normative anchors—simultaneously affirming the longevity of existing customs and enabling the bureaucratic reproduction of their associated practices. Rather than revealing epistemological uncertainty, temporal ambiguity served as a generative mechanism through which the past was made usable, adaptable, and authoritative in the present. Thus, *kadîm* functioned not simply as a label of inherited tradition but as an active rhetorical and administrative instrument that enabled the dynamic regeneration of legitimacy.

However, not all scholars have regarded this function as ideologically neutral. Some have argued that the legitimizing power of *kadîm*-based discourse within

Ottoman society—and especially in interactions between communities and the state—lay in its temporal framing, which allowed for the concealment of innovation under the guise of tradition. According to this view, temporality did not merely confer authority on established practices but also strategically obscured moments of rupture or transformation by embedding them within a narrative of continuity. While this subsection has primarily emphasized the legitimizing functions of vague temporal expressions, it has also briefly gestured toward critical perspectives—highlighting that ambiguity, while generative, could also be strategically mobilized to obscure innovation under the guise of tradition. These dimensions will be explored further in section 5.3.

5.2.2 Materializing Memory: Specific Durations and Documentary

Fixation

While vague temporal expressions emphasized the indeterminate depth of custom, early modern Ottoman archival documents also contain more concrete formulations that sought to anchor practices in generational or numerical memory. Drawing on Özer Ergenç's typology, this section dwells upon intergenerational expressions rooted in dynastic lineage, and quantified durations tied to social memory. Phrases such as "*babam zamanında*" ("in my father's time"), "*ceddim/atam zamanında*" ("in my grandfather/ancestor's time"), or "*otuz seneden beri*" ("for the past thirty years") functioned as narrative strategies that materialized *âdet* by inscribing it into familial recollection and lived duration. These expressions did not

depend on formal legal validation; rather, they derived authority from social continuity as remembered and repeated across generations. By appealing to oral testimony, ancestral precedent, and measurable time spans, such language produced a compelling sense of longevity that operated as a discursive substitute for written proof. This section argues that, in the early modern Ottoman Empire, the legitimacy of *‘âdet* was often grounded not in abstract notions of antiquity or codified law, but in shared memory, dynastic continuity, and quantifiable persistence. These rhetorical strategies were not merely descriptive—they played a constitutive role in sustaining imperial authority by embedding the power of custom within both collective imagination and the logic of governance.

The second type of temporal expression used to articulate the temporality of *‘âdet-i kadîme* is grounded in the principle of intergenerational continuity and is typically formulated through phrases such as “since my father’s time,” “from the era of my forefather,” or “in my grandfather’s day.”⁵⁹⁷ Unlike vague and open-ended temporal markers such as “*kadîmden berü*” (“from time immemorial”), these expressions refer to more specific and relatively more traceable timeframes that are more easily situated within collective memory. By suggesting a connection to a particular generation, they render the origin of a custom more historically verifiable. However, certain temporal expressions which can be fell under this category, may also carry esoteric qualities. References in some communities to socially respected figures such as “our grandfathers,” or “our elders” emphasize collective memory and intergenerational transmission, yet often without specifying exactly whose ancestors or leaders are being invoked. In such cases, the past is detached from identifiable or verifiable sources and instead gains legitimacy within a socially recognized but

⁵⁹⁷ Ergenç, “Continuity and Change ...,” 559.

ambiguously defined sphere of communal memory. As Ergenç argues, such expressions usually correspond to a time span of one or two centuries—long enough to evoke tradition, yet short enough to be recalled or documented with greater clarity.⁵⁹⁸ These forms of temporal reference tend to carry greater normative force, not only within the collective consciousness but also in the eyes of political authority. By anchoring a custom in a concrete genealogical lineage, these expressions do not merely signal the persistence of a practice, but also imply its legitimacy through sustained transmission and consistent enactment by identifiable actors. In this sense, the authority of the custom stems not from an ambiguous antiquity, but from a more tangible, intergenerational past that lends it both historical and normative weight.

The imperial decree sent to *mir-i âlem* Celal Ağa on May 17, 1572 offers a compelling example of how the temporality of *âdet-i kadîme* is articulated through intergenerational references and stabilized through documentary evidence.⁵⁹⁹ In response to Celal Ağa's request to increase number of people in the *mehter* platoon serving in the imperial center (*Dergâh-ı Mu'alla*), Sultan Selim II refers to earlier records (*defâtir-i kadîm*) which document that the *mehter* platoon had consisted of 200 members during the reign of his grandfather, Selim I, particularly at the time of the Egyptian campaign (“*ceddüm Sultan Selim Hân ... Mısır fethine müteveccih oldukda*”), as well as during the reign of his father, Sultan Süleyman I (“*babam Sultân*

⁵⁹⁸ Ergenç, “Continuity and Change ...,” 559.

⁵⁹⁹ BOA, A.DVNS.MHM.d.19-21, H-04-01-980. “*Mîr-i âlem Celâl Ağa'ya hüküm ki: Dergâh-ı Mu'allâmda olan âlem mehterleri hâlâ yüz yetmiş yedi nefer olup ziyâde olması lâzım olduğun arz eylemişsin. İmdi; defâtir-i kadîmeye mürâca'at olundukda merhûm ve mağfûrun-leh ceddüm Sultan Selîm Hân tâbe serâbu Mısır fethine müteveccih oldukda ve cenâb-ı Firdevs-mekân babam Sultân Süleymân Hân nevvera'llâhü te'âlâ merkadehü zamânında dahi tâyife-i mezbûre cümle iki yüz nefer olduğu mukayyed bulunmağın kemâ-kân tâyife-i mezbûre iki yüz nefere irişdürilmesin Emridüp buyurdum ki: Vardukda, tâyife-i mezbûrdan kankı kısmı dahi ziyâde olmak lâzım ise ana göre gâyet yarar u üstâdlarından ziyâde idüp cümlesin tamâm iki yüz nefere yitişdürüp ulûfelerin olıgelen 'âdet ü kânûnları üzre ta'yîn idüp defterlerin Dergâh-ı Mu'aallâm'a gönderesin ki, mahalline kaydoluna.*”

Süleymân Hân ... zamânında”). Based on these records, he commands that the number be restored to 200 “as it was before” (“*kemâ-kân*”), thus reinstating the precedent.

What is particularly striking in this document is the invocation of “*ceddim zamanında*” (“in the time of my ancestor”), which refers to a historically specific event—Selim I’s conquest of Egypt in 1517—approximately 55 years prior to the issuance of the decree. This expression therefore does not refer to an ambiguous or mythical past, but to a traceable historical moment embedded within a dynastic lineage. In doing so, the decree simultaneously highlights the continuity of the practice and its legitimation through association with sovereign authority. Moreover, the reliance on archival records (*defâtir-i kadîm*) underscores the role of written documentation not merely as a tool of remembrance, but as a mechanism of legitimization that transforms past practices into authoritative precedents. In this regard, the decree demonstrates how customs were institutionalized and legitimized not only through collective memory, but also through documentary practices and intergenerational continuity.

Drawing on the above example, it becomes evident that customs derived their legitimacy not solely from their longevity, but also from their association with specific historical figures or periods. In early modern Ottoman society, for a given practice to be regarded as “*kadîm*,” it was often not enough that it had endured over time; its legitimacy also depended on its association with a stable and authoritative political order. References to foundational rulers—particularly to figures such as Mehmed II, Selim I, and Süleyman I—did not merely underscore the antiquity of the custom, but implied that it had been instituted under the authority of a central and indisputable sovereign. According to Eunjeong Yi, various guilds claimed that their customs could

be traced back to the reign of Sultan Mehmed II.⁶⁰⁰ Guilds that had existed since the time of Mehmed II or were located in his endowed buildings often asserted monopolistic control over the raw materials specific to their trade.⁶⁰¹ Such references indicate that the normative force of tradition was rooted not only in temporal depth, but also in the political potency of the figure who first established it. In this sense, legitimation involved more than the invocation of a distant past; it entailed the reactivation of a historically constituted order in the present. Customs thus gained strength not from an indeterminate antiquity, but from their linkage to a historically specific moment of institutional founding—revealing a broader strategy by which tradition was anchored to political authority.

A decree dated October 29, 1618 serves as a striking example of how customs derived their legitimacy from their association with specific figures of authority.⁶⁰² Issued in response to complaints concerning the overcharging practices of coachmen in Edirne, as well as the resulting disorder and threats to travelers along the roads. In

⁶⁰⁰ Yi, 17. Yüzyıl İstanbul'unda ..., 133.

⁶⁰¹ Yi, 17. Yüzyıl İstanbul'unda ..., 133.

⁶⁰² BOA, A.DVNS.MHM.d.82-364, H-10-11-1027. “Mûmâ-ileyhe hüküm ki: Mahmiyye-i Edirne'nün atarabacıları yazda ve kışda kadîmden olıgeldüğünden ziyâde ücret alup Edirne'den İstanbul'a varup gelmekle fukarâya te'addî ve ba'zı askerî tâyîfesi dahi at arabaları alup kul ve ter-oğlanları ile arabaların gönderüp ba'zı kimesneler zâyi' u telef olduğu ve hâric kazâdan ba'zı kimesneler arabacılık idüp ve ba'zı arabalar dahi yolda mahûf ... [this part was damaged and cannot be read] ta'mîr olunca sâyir yoldaşları tevakkuf itmeyüb birağub gitmekle nice tüccâr ve gayri ebnâ-i sebîl katl ve esbâb u emvâlleri nehb ü gâret olunduğı istimâ' olunmağın, merhûm ve mağfürun-leh Sultân Süleymân Hân tâbe serâhü zamânında alınan ücret ta'yîn olunmak ve askerî tâyîfesinden arabacılık idenler men' olunmak ve âhar kazâdan olanlar ve kefilleri olmayanlar arabacılık itdürilmemek bâbında fermân-ı âlî-şânım sâdır olmuştur. Buyurdum ki: Vusûl buldukda, bu bâbda sâdır olan emrüm mücebince amel idüb dahi merhûm Sultân Süleymân Hân tâbe serâhü zamânında olduğu üzre yazda ve kışda ücretlerin ta'yîn idüb bir akça ve bir habbe ziyâde aldurmayub bir ferde te'allül ü inâd itdürmeyesin ve min-ba'd askerî tâyîfesine arabacılık itdürmeyesin men' u def' eylesesin. Memnû' olmayub emrûme muhâlefet idenleri ism ü resmleri ve şöhetleri ve bölükleri ile yazub arzeyesin ve Edirne'de sâkin olmayub hâric kazâdan olanları ve kefilleri olmayanları dahi arabacılık itmekden men' u def' eylesesin ve arabacı tâyîfesine dahi muhkem tenbîh eylesesin ki, ittîfâk ile kalkup ve ittîfâk ile konup min-ba'd müteferrik gitmeyüb cümlesi bir yirden gideler ve anun gibi yolda birinün arabası kırıldukda cümlesi tevakkuf idüb ta'mîri kâbil ise ta'mîr olunmağa mu'âvenet idüp ta'mîr ideler; ta'mîre kâbil olmaz ise götördükleri yükleri âhar arabalara tevzî' u taksîm ü tahmîl idüb konağa îsâl idüb min-ba'd o makûle arabası kırılanları yolda bırakmayalar. Şöyle ki; ba'de't-tenbîh mütenebbih olmayub o makûleleri bırakmağa müslimânlar zarar u te'addî ola, o makûlelerin gereği gibi şer'le haklarında lâzım geleni icrâ eylesesin ve bi'l-cümle bu husûsa onat vechile mukayyed olup vârid olan emr-i şerîfümün icrâsında dikkat ü ihtimâm eylesesin.”

response to these problems the sultan ordered the reinstatement of pricing regulations set during the reign of Süleyman I (*Süleymân Hân ... zamânında alınan ücret*). Although no direct archival record of these specific regulations has survived, the fact that the decree ties the practice back to the reign of Süleyman I (r. 1520–1566), and implies that it had remained in force for approximately 52 to 98 years, reveals that the legitimacy of this practice rested not only on its age but also on its connection to a foundational political authority. Such references functioned as strategic invocations of the past, linking contemporary governance to the enduring authority of a sultan known for instituting order and stability. In doing so, the decree illustrates how the past was not merely remembered, but activated as a normative resource with political potency in the present.

The third category of temporal expression consists of precise references to fixed durations, such as “for thirty years” (*“otuz yıldan berü”*) or “for sixty years” (*“altmış senedir”*).⁶⁰³ Among the different types of temporal formulations found in sixteenth and seventeenth centuries Ottoman archival documents, this type appears to be the least frequently used in articulating the temporality of *‘âdet*. What distinguishes these expressions is their emphasis on measurable and concrete durations, as opposed to vague metaphors or abstract invocations of the past. From a contemporary perspective, such timeframes may appear relatively short when compared to other temporal forms—such as open-ended expressions or generational references—but in the context of early modern Ottoman society, they corresponded to significant periods of time. Given that the average life expectancy during this period ranged between 35 and 40 years, a custom that had been continuously observed for 30 or 60 years would

⁶⁰³ Ergenç, “Continuity and Change ...,” 559.

have spanned a large portion, if not the entirety, of an individual's adult life.⁶⁰⁴ In fact, even a duration of 20 to 25 years should not be underestimated, especially considering that it falls within the window of a person's capacity to contribute to and retain active memory within society. Therefore, these expressions not only assert temporal continuity, but also imply a depth of memory and social validation—anchored in personal experience, communal testimony, and intergenerational transmission.

The imperial decree sent to the qadis of Selanik and Toyran in 1618 stands out as a rare example in which all three major types of temporal expressions used to articulate the continuity of *'âdet* appear within a single document.⁶⁰⁵ According to the decree, the local population engaged in fishing in Lake Toyran had, for over twenty years (*yigirmi yıldan mütevâviz*), been paying one *akçe* out of every three to Grand Vizier Halil Pasha, and one *akçe* out of every ten to their local voivode. Despite the fact that this tax arrangement was described as having existed since time immemorial

⁶⁰⁴ Nühket Varlık has pointed out that the global average life expectancy in 1800 at birth was no higher than 30 years. Despite the lack of reliable statistical information, it was assumed that an individual's average life expectancy at birth in early modern Istanbul was between 30 and 40 years. It was much lower in the premodern period. See Nühket Varlık, "Death in Istanbul: Plagues, Fires, and Other Catastrophes," in *A Companion to Early Modern Istanbul*, ed. Shirine Hamadeh and Çiğdem Kafescioğlu (Leiden, The Netherlands: Brill, 2021), 420–45.

⁶⁰⁵ BOA, A.DVNS.MHM.d.82-235, H-07-06-1027. "Selanik ve Toyran kâdîlarına hüküm ki: Düstûr-ı ekrem, müşîr-i eḫam, nizâmü'l-âlem, asâkir-i nusret-âsârûma Serdâr olub Vezîr-i A'zam olan Halîl Paḫa edâma'llâhü te'âlâ iclâlehûnun Voyvodası olub Toyran kazâsında sâkin Dergâh-ı Mu'allâm kapucularından Halîl zîde kadruhü Südde-i Sa'âdetüm'e gelüb; "müşârun-ileyhün kazâ-i mezbûrda vâkı' havâssından olup müşârun-ileyhe hâsıl kaydolunan Toyran gölinde balık sayyâdları yigirmi yıldan mütecâviz saydeyledükleri balık mahsûlinden üç akçada bir akçasın müşârun-ileyh için ve voyvodalarına Harzeme (?) nâmına rızâlarıyla on akçada bir akça viregelmekle vârid olan emr-i şerîf mücebince mezbûr voyvoda'nun eline huccet-i şer'îye virilmişken hâlâ kadîmden alınıgeldüğü üzere zikrolunan balık sayyâdlarından ol minvâl üzere akça taleb olundukda bin yigirmi altı ve bin yigirmi yedi senelerinde âyid olanı vech-i meşrûh üzere virmeğe inâd ve sayditmeğe muhâlefet itmekle hâsları mahsûline küllî noksân lâzım olduğın" i'lâm itmekle; "kadîmden olıgeldüğü üzere amel olunmak için merhûm ve mağfûrun-leh babam hudâvendigâr tâbe serâhü zamânında emr-i şerîf virildüğün" bildürüb hâlâ tecdîd olunmak bâbında emr-i şerîfüm recâ eyledüğü ecilden buyurdum ki: Vusûl buldukda, bu bâbda onat mukayyed olub zikrolunan balık sayyâdların müşârun-ileyhün voyvodası ile meclis-i şer'a ihzâr idüb dahi mezbûrlara muhkem tenbîh ü te'kîd eyleyesiz ki, mûmâ-ileyhün havâssından olup hâsıl kaydolunan balık sayyâdlarından sayditdükleri balığın rûsûmından vech-i meşrûh üzere müşârun-ileyhe ve voyvodalarına âyid olan mahsûlin mukaddemâ virilen emr-i şerîf ve huccet [mücebince] kadîmden olıgeldüğü üzere amel idüb ve sayditmekde inâd ü muhâlefet itmeyüp vâkı' olan rûsûmâtına zarar itmeyeler. Şöyle ki; inâdlarına musırr olup balık saydına inâd ü muhâlefet iderlerse ism ü resmîleriyle yazub bildüresin ki, inâd ü muhâlefet üzere olanlar getürdölüb küreğe konıla. Bu bâbda gereği gibi mütenebbih olub müşârun-ileyhün mahsûline gadrolmak ihtimâli olmaya."

(*kadîmden berü*), and even though the voivode possessed a written document stipulating the payment of these taxes, it was reported that the fishermen had persistently refused to pay, thereby undermining the revenue allocated to both Halil Pasha and the voivode. In response to this disruption, a request was submitted for the renewal of an earlier *emr-i hümayûn* that had previously been issued during the reign of the sultan's father, reaffirming the obligation of these tax payments.

The temporal expressions found in this decree offer a significant illustration of how *'âdet* was legitimized through diverse temporal strategies. The phrase "*kadîmden olgeldiği*" ("as it has continued since ancient times") refers to the longstanding practice of collecting taxes on fish caught in Lake Toyran. It implies a tradition with an indeterminate historical origin—possibly predating Ottoman rule—that has been sustained through repetition and gradually transformed into a customary norm. In contrast, the expression "*babam zamânında*" ("in my father's time"), written during the reign of Osman II, directly invokes the authority of his predecessor, Ahmed I. This intergenerational reference does not merely affirm the continuity of the practice, but anchors it in dynastic legitimacy, suggesting that the custom had been sanctioned by the previous sovereign. The third temporal layer is revealed through the statement that this taxation rate had been in place for more than twenty years, indicating a well-defined duration that had allowed the practice to take root in both social and administrative memory. Thus, within a single document, three distinct modes of temporal legitimization converge: one grounded in a vague and ancient continuity, another in dynastic succession, and a third in measurable historical duration. Together, they endow the custom with a normative and binding status, reinforced by both the past's symbolic authority and its practical persistence.

In sum, the temporality of *‘âdet-i kadîme* was not articulated through a single, uniform mode of expression, but rather through a layered vocabulary of time that ranged from vague assertions of deep continuity to specific generational references and fixed durations. Each of these temporal strategies served not only to describe the persistence of custom, but also to legitimize it by embedding it in different registers of memory—mythic, dynastic, and lived. What these examples collectively reveal is that in the early modern Ottoman Empire, the authority of custom was constructed not through rigid codification, but through temporal embedding. Time itself, in various discursive forms, functioned as a legitimating force. Many of these documents drew on the rhetorical power of continuity, repetition, and origin. As the following section will show, however, the deployment of such temporal claims was not always uncontested; disputes over what counted as “*kadîm*” often gave rise to negotiations, conflicts, and imperial adjudications that reveal the political stakes of customary time.

5.3 Shaping the Future with the Past: Strategic Reproduction of *‘Âdet-i Kadîme*

While the previous section examined how temporal expressions embedded custom within a discourse of continuity, this section turns to the ways in which *‘âdet-i kadîme* was strategically mobilized to shape the present and future. Rather than simply preserving inherited norms, Ottoman actors—ranging from guilds and voivodes to provincial officials—frequently invoked the authority of custom to legitimize emerging practices, resist external interventions, or reassert control over contested domains. In such contexts, the invocation of *‘âdet-i kadîme* functioned not

as a passive appeal to the past, but as an active strategy of temporal framing. Whether recent innovations were retroactively presented as longstanding tradition, or existing practices were defended as ancient rights, custom operated as a flexible and performative resource. By foregrounding the invention, reproduction, and manipulation of custom, this section argues that temporality in the Ottoman context was not exclusively retrospective; it was also projective and future-oriented—capable of authorizing change by giving it the appearance of deep historical continuity.

This section proceeds in two parts. The first explores how actors retroactively constructed or reframed recent innovations as ancient traditions in order to legitimize them—a practice akin to what Eric Hobsbawm has termed the “invention of tradition.” The second part focuses on how *‘âdet-i kadîme* was deployed as a tool of resistance, particularly in legal or fiscal disputes, where asserting the antiquity of a practice served to block reforms, assert local autonomy, or challenge competing claims.

5.3.1 Legitimizing Change through Precedent: The Temporal Reframing of Custom

In the early modern Ottoman Empire, the authority of *‘âdet-i kadîme* was not simply grounded in the passive endurance of ancient practices, but was actively reinforced through the strategic invocation of precedent. Recent historiography on the temporal and political functions of custom—particularly following Eric Hobsbawm’s influential concept of the “invention of tradition”—has emphasized that traditions are

often retroactively constructed to legitimize contemporary changes.⁶⁰⁶ Within this framework, new practices are reframed as ancient to stabilize social and political transformations.⁶⁰⁷ While this model has primarily been applied to modern societies (18th–20th centuries), it has also encouraged scholars to reconsider how tradition operated in early modern contexts.⁶⁰⁸

This sub-section accepts that the rhetoric of *kadîm* functioned as a powerful legitimizing tool in early modern Ottoman political discourse. However, it argues that legitimacy was not necessarily produced by labeling new practices as ancient. Rather, it emerged through the strategic invocation of precedent—selectively recalled historical examples that imbued contemporary practices with the symbolic authority of the past. Crucially, the legitimizing power of these precedents lay not in their verifiable antiquity, but in their ambiguous temporality—phrased in ways that evoked continuity with an idealized and often untraceable past. In this light, the section builds upon Hobsbawm’s notion of the “invention of tradition,” specifically his insight that traditions often emerge from a curated and rhetorical engagement with the past rather than from actual continuity. It first examines the temporal construction of customs then situates these discursive practices within broader historiographical debates, and finally examines archival evidence to show how precedent was mobilized to legitimize change under the authority of *âdet-i kadîme*.

The temporality of custom disrupts linear historical time by invoking concepts such as “time immemorial” and constructing an alternative temporal logic. This phrase typically refers to a past so distant that it exceeds human memory, suggesting a practice

⁶⁰⁶ Hobsbawm, “Introduction: Inventing Traditions,” 1–2.

⁶⁰⁷ Hobsbawm, *The Invention of Tradition*, 9.

⁶⁰⁸ Iurlaro, *The Invention of Custom* ..., 7; Premo, “Custom Today ...,” 355; Elsky, *Custom, Common Law* ..., 76–79; Yannakakis, *Since Time Immemorial* ..., 197.

followed for so long that its origins are no longer known. Rather than emphasizing chronological sequence, customary temporality foregrounds the perception that a practice has “always been so,” thereby creating an impression of timelessness.⁶⁰⁹ Carol Greenhouse clearly articulates this alternative temporal logic by arguing that common laws operate both within linear historical time and beyond it.⁶¹⁰ While they rely on precedent, the analogical reasoning they employ generates a form of “false historicity”—one that repeatedly reclaims the authority of the past for present purposes.⁶¹¹ In this way, law appears to accumulate over time without ever truly passing; it projects a sense of “timelessness,” as if it belongs equally to all moments.⁶¹²

In this sense, this alternative temporality directly underpins the authority of customs. As Premo argues, the authority of ancient practices lies not in their factual antiquity but in their construction as “timeless.”⁶¹³ The logic behind this claim becomes clearer through Reinhart Koselleck’s insight that the meaning of the past is never fixed but is continually reinterpreted in each present moment.⁶¹⁴ Accordingly, customs retain their normative power not by anchoring themselves in a specific historical origin, but by projecting a sense of “timeless temporality”—one that enables them to transcend historical rupture. In this view, the concept of “timelessness” of custom does not imply an absence of temporality, but rather it highlights the capacity of customs to find renewed meanings across multiple temporal frames.⁶¹⁵ This

⁶⁰⁹ Elsky, *Custom, Common Law* ..., 42.

⁶¹⁰ Greenhouse, “Just in Time ...,” 1640.

⁶¹¹ Greenhouse, “Just in Time ...,” 1640.

⁶¹² Greenhouse, “Just in Time ...,” 1640.

⁶¹³ Premo, “Custom Today ...,” 355–56.

⁶¹⁴ Koselleck, “The Eighteenth Century ...,” 167.

⁶¹⁵ Premo, “Custom Today ...,” 355–58. As Justin B. Richland’s analysis of Hopi customary claims illustrates, temporal expressions that appear “timeless” are not devoid of temporality; rather, they signify the ability of customs to generate new meanings across multiple temporal frames, a dynamic that resonates with Bianca Premo’s conceptualization of “timelessness. Justin B. Richland, “Sovereign Time, Storied Moments: The Temporalities of Law, Tradition, and Ethnography in Hopi Tribal Court,” *PoLAR* 31, no. 1 (2008): 15–16.

timelessness, or the quality of belonging to “all times,” emerges from the fact that customary practices often refer to a remote, untraceable past—one without a clear beginning.⁶¹⁶ Thus, what is invoked as “*kadîm*” could be any selectively remembered moment in the past, making such practices appear eternal. This openness corresponds to diverse temporal perceptions in the minds of individuals, enabling a single custom to operate across multiple pasts while remaining active in the present. Within this framework, the rhetoric of *kadîm* serves a dual function: it not only integrates past practices into the present to generate a sense of continuity or to address contemporary needs, but also retroactively legitimizes the present moment and contemporary practices by anchoring them in the symbolic authority of the past.

Building on this theoretical framework, in recent years, a growing body of scholarship—particularly in the context of early colonial Latin America—has examined the instrumentalization of temporality in the construction of tradition.⁶¹⁷ These studies have demonstrated that practices presented as immemorial or ancient may have originated in the relatively recent past. Even in the absence of long or uninterrupted historical usage, certain practices were accepted as *immemorial* under specific political or social conditions. For instance, Tamar Herzog notes that while the required duration varied by context, customs that had existed for only twenty, thirty, or forty years were often deemed sufficiently ancient.⁶¹⁸

Such studies suggest that the classifying a practice as *immemorial* was not merely a historical claim but a political strategy—a means of legitimizing privileges

⁶¹⁶ Elsky, *Custom, Common Law ...*, 42.

⁶¹⁷ Kuskowski, “The Time of Custom ...,” 149; Herzog, “Immemorial (and Native) Customs ...,” 4; Max Deardorff, “Republics, their Customs and the Law of the King: Convivencia and Self-Determination in the Crown of Castile and its American Territories, 1400–1700,” *Rechtsgeschichte – Legal History* 26 (2018): 162, 168; Premo, “Custom Today ...,” 355.

⁶¹⁸ Herzog, “Immemorial (and Native) Customs ...,” 28–38.

or obligations, asserting authority, or naturalizing new regulations by embedding them in a curated past. As Hobsbawm argued, invented traditions often involve formalized practices designed to instill shared values and norms.⁶¹⁹ In this context, vague temporal expressions in customary discourse present innovations as familiar and legitimate—especially during periods of uncertainty or resistance to change.⁶²⁰ Premo further contends that this dynamic reveals *immemoriality* does not as a form of resistance to change, but rather as a flexible framework that absorbs and directs change.⁶²¹ Tamar Herzog similarly notes that the recognition of ancient custom does not always reflect a desire to preserve the past or show deference to tradition; in some cases, it serves as a tool for imposing new orders or facilitating cultural transformation.⁶²² These perspectives emphasize that immemorial should not be seen as a fixed and objective historical reality, but rather as a dynamic and narrative construct that operates between stability and transformation.⁶²³

This broader theoretical and historiographical framework also finds resonance in scholarship on the Ottoman Empire. Hakan Karateke argues for the relevance of the concept of “invented tradition.” For him, a practice that is not genuinely ancient in historical terms can nonetheless gain legitimacy by being presented as *kadîm*. Similarly, Claudia Kickingner claims that, while many practices are portrayed as long-standing and transgenerational, they may in fact be relatively recent responses to specific historical or political conditions.⁶²⁴ If such a “new *kadîm*” becomes established over time, it may eventually function as if it were a genuinely ancient

⁶¹⁹ Hobsbawm, *The Invention of Tradition*, 1–2.

⁶²⁰ Elsky, *Custom, Common Law ...*, 6; Premo, “Custom Today ...,” 355–361; Kuskowski, “The Time of Custom ...,” 144.

⁶²¹ Premo, “Custom Today ...,” 361–62.

⁶²² Herzog, “Immemorial (and Native) Customs ...,” 39.

⁶²³ Elsky, *Custom, Common Law ...*, 20; Iurlaro, *The Invention of Custom ...*, 23–24; Herzog, “Immemorial (and Native) Customs ...,” 37.

⁶²⁴ Kickingner, “The Significance of Customary Law ...,” 48.

tradition.⁶²⁵ In other words, a practice may in fact originate from a distant past and thus be considered *kadîm*, or it may not be ancient at all but is framed as such in order to benefit from the legitimizing power of antiquity.⁶²⁶ In a similar vein, Kickinger contends that the most effective way to secure the recognition of new regulations or agreements was to present them as ancient and binding from the outset—both to benefit from the legitimizing power of customary law and to preempt potential challenges on the grounds that they contradicted older established customs.⁶²⁷ This view is consistent with the growing body of recent scholarship on the subject. For Karateke, labeling a practice as *kadîm* not only marks it as valid or established, but also implies that it carries unquestionable authority grounded in history.⁶²⁸ Thus, concepts like “*kânûn-ı kadîm*” or “*âdet-i kadîme*” evoke not only the traditional but also that which is strengthened by the symbolic weight of the past.⁶²⁹ According to Karateke, one of the primary goals behind this rhetoric is for the state to achieve its ideological objectives and reshape society accordingly.⁶³⁰ Another goal concerns the legitimation of the future: innovations can only become socially acceptable when they are framed within a traditional foundation.⁶³¹ Taken together, Karateke’s argument thus parallels broader tendencies in historical scholarship that emphasize the strategic construction of continuity in legitimizing change.

Yet while Karateke’s interpretation offers valuable insight into the symbolic construction of tradition in Ottoman political discourse, his framework also raises certain methodological and conceptual questions that warrant further reflection. Most

⁶²⁵ Karateke, “Osmanlı Devletinde ...” 119–20.

⁶²⁶ Karateke, “Osmanlı Devletinde ...” 119.

⁶²⁷ Kickinger, “The Significance of Customary Law ...,” 50.

⁶²⁸ Karateke, “Osmanlı Devletinde ...” 120–21.

⁶²⁹ Karateke, “Osmanlı Devletinde ...” 121.

⁶³⁰ Karateke, “Osmanlı Devletinde ...” 121–22.

⁶³¹ Karateke, “Osmanlı Devletinde ...” 122.

notably, his analysis operates primarily at the discursive level and is not supported by detailed empirical evidence. In particular, he does not provide concrete archival examples of practices that were “presented as *kadîm* but were in fact new,” which makes it challenging to assess how his theoretical claims manifest in specific historical contexts. As a result, the argument, while thought-provoking, occasionally risks leaning more toward interpretive abstraction than grounded historical demonstration.

Secondly, Karateke’s model privileges a top-down vision of custom-making, viewing *kadîm* primarily as a tool of state ideology. While this perspective highlights the strategic role of the state in constructing narratives of continuity, it overlooks the agency of society in responding to, internalizing, or potentially resisting such narratives. In other words, the effectiveness of *kadîm* rhetoric does not solely depend on its discursive construction by the state, but also on the extent to which it is received, recontextualized, and reproduced within the lived temporal experiences of ordinary people. Archival evidence, especially from court records and communal disputes, indicates that *kadîm* was not solely imposed from above; it was also invoked from below—by guilds, local notables, and communities—to assert rights, defend privileges, or resist state intervention. Such uses of *âdet-i kadîme* complicate the notion of *kadîm* as an exclusively central narrative and highlight its contingent, negotiated nature. Customs, even when framed as *kadîm*, require a degree of popular acknowledgment and internalization in order to function as normative. By neglecting this reciprocal dynamic, Karateke’s framework risks flattening the complex interplay between discourse and practice.

Finally, Karateke does not sufficiently differentiate between the “invention” of tradition and the “reinterpretation” of existing practices. This conceptual distinction, however, is critical. A tradition may be deliberately invented from scratch—such as a

ritual or symbolic practice created to establish a sense of continuity—or it may involve the reframing of a long-standing practice within a new ideological or political context. Without clearly differentiating these two modes, Karateke's analysis of *kadîm* rhetoric risks conflating distinct processes and thereby introducing conceptual ambiguity. This limits our ability to fully grasp how tradition functioned in the Ottoman context—whether as an imposed construct, an adapted continuity, or a negotiated response to evolving social and political realities.

Despite these limitations, Karateke's emphasis on the rhetorical production of *kadîm* opens valuable avenues for understanding how legitimacy was historically constructed. Rather than focusing on whether a given practice was truly *kadîm* or merely fabricated, this section shifts the emphasis to how claims to antiquity were mobilized, framed, and operationalized within legal and administrative discourse. In particular, this part argues that *kadîm* sometimes functioned less as a chronological marker of the distant past than as a normative category that could be selectively invoked to authorize present arrangements. Even isolated precedents—imperial decrees, communal practices, or remembered customs—could be lifted out of their original temporal context and reactivated as precedent to create binding norms. These rhetorical strategies often relied on ambiguous temporal expressions that blurred the boundary between past and present, creating an impression of unbroken continuity. In this regard, although the early modern Ottoman case does not fully align with the modern concept of “invented tradition,” it exhibits similar logics of inter-temporal legitimacy, where the authority of the past was constructed through selective invocation rather than continuous transmission.

In this context, Suraiya Faroqhi emphasizes that in sixteenth- and seventeenth-century Ottoman society, “one of the most powerful means of legitimating any kind of

practice was by saying that it had a precedent.”⁶³² In this view, precedent was not merely a reference to repeated historical usage but a rhetorical resource whose effectiveness depended on its symbolic association with past based on stability and order. Rather than requiring long-standing, uninterrupted continuity in practice of customs, such appeals could rest on isolated and selectively remembered examples—fragment of the past capable of being reframed as sources of binding legitimacy in the present. Therefore, while the rhetoric of *kadîm* creates a connection between the past and the present, this connection is neither direct nor comprehensive, but rather selective and functional.⁶³³ A single historical example from the past—such as an imperial decree judicial court decision, or a customary practice—could be lifted out of its original context and reintroduced into the present as precedent. This strategic use of the past to shape present practices may be described as a form of “inter-temporality,” in which discrete moments from the past are imbued with normative authority in the present.⁶³⁴ Phrases such as “*kadîmü’l-eyyâmdan*” and “*olagelmişe mugayir*” appear frequently in petitions and decrees, functioning as normative markers that imbued claims with the aura of authority. This reliance on selectively recalled and rhetorically amplified examples reveals how temporal authority could be constructed not through demonstrable continuity, but through the appearance of it.

A compelling example of this dynamic appears in an imperial decree dated February 24, 1570, addressed to the governor, the qadi, and the treasurer of Damascus, concerning problems related to rice cultivation and supply in the region.⁶³⁵ It had

⁶³² Faroqhi, “Political Activity ...,” 5.

⁶³³ Elsky, *Custom, Common Law* ..., 33.

⁶³⁴ Elsky, *Custom, Common Law* ..., 33–34.

⁶³⁵ BOA, A.DVNS.MHM.d.9-32, H-18-09-977. “*Şâm beglerbegisine ve kadısına ve defterdârına hüküm ki: Mektûb gönderüp kadîmden Mısır’dan Şâm’a pirinç gelüp hâlen emr-i şerîfle men’ olunmağın ahâlî-i Şâm’ın ve Şâm’da vâkı’ olan imâret-i selâtînin pirinç husûsında ziyâde müzâyakaları olup ‘imâret mütevellîleri pirinç külletinden imâretler kapatmak lâzım gelmiştir diyü Mısır’dan Şâm’a pirinç gelmek için hükûm-i şerîfîm virilmesin recâ itdüklerin bildürmüşsin. İmdi kadîmden Şâm’da ve etrâfda pirinç*

previously been reported that rice shipments from Egypt to Damascus had taken place “since ancient times” (*kadîmden*), but that these shipments had been suspended by an earlier order—resulting in a shortage of rice for both the people of Damascus and the sultan’s endowments in the city. In response, a petition was submitted to the sultan requesting a new imperial order to allow the resumption of shipments from Egypt. However, the sultan rejected the request on the grounds that the Egyptian rice supply was only sufficient for Istanbul. Instead, he reminded the officials that rice had been cultivated in and around Damascus “since ancient times” (*kadîmden*), and stressed that cultivation in those areas must be resumed “as it had been done in the past” (*zamânıyla olıgeldiğü üzere*).

This decree offers a striking example of how the rhetoric of *kadîm* operated in the Ottoman context and how the past could be selectively reconfigured to legitimize present political decisions. The document refers to the longstanding practice of shipping rice from Egypt to Damascus, stating that it had occurred “since ancient times” (*kadîmden berü*), but that it had been interrupted by a previous imperial order. This interruption had led to a severe rice shortage affecting both the population of Damascus and the city’s charitable endowments. While the text does not specify when this practice began or under whose reign it was established, the severity of the shortage and the mention of a previous imperial order suggest that the practice had continued for quite some time. Still, it remains unclear whether it was truly “ancient” in the sense implied by the term *kadîm*. In response to the shortage, the resumption of the Egyptian rice shipments was requested by invoking their presumed ancient status. However,

ekilügelmişdir. Girü zamânıyla ekilmek lâzımdır. Mısır’ın pirinci İstanbul’a ancak kifâyet ider iken Şâm’a pirinç gönderilmek nice mümkündür. Buyurdum ki: Bu bâbda mukayyed olup kadîmden ol câniblerde pirinç ekilirken yerleri zamânıyla ola geldiği üzere ekdirüp mümkün olduğu kadar ‘imâret ve ahâlî-i Şâm’a pirinç tedârük eylemek ve hâlen Pınarbaşı nâm mahalde kal’a binâ olunmuşdur. İnşâallâh sonra pirinç dahı geliüp müzâyaka çekilmeye. Hemân ihtimam idüp kadîmden çeltik eküle gelen yerlere mevsimiyle çeltik ekdirmek bâbında dakika fevt olunmayup ikdâm ü ihtimâm üzre olasız.”

instead of endorsing this claim, the sultan introduces an alternative *kadîm* practice: the cultivation of rice in and around Damascus, which, he argues, had existed “since ancient times” and should now be revived. What makes this claim notable is that while rice cultivation in Damascus may indeed have occurred in the past, the document implies that this practice had long been abandoned—hence the region’s reliance on Egyptian imports. The sultan’s reference to local cultivation thus rests not on uninterrupted continuity but on a selectively recalled moment from the past.

This case illustrates a legitimacy strategy grounded not in temporal continuity but in temporal selectivity. Rather than reviving an existing precedent, the sultan constructs a different one, using the symbolic weight of a selectively remembered past to justify his rejection of the current petition. In doing so, the authority of *kadîm* is not deployed to preserve the past as such, but to reshape present policy through the invocation of a rhetorically powerful and strategically chosen historical reference. This example therefore demonstrates how *kadîm* served not as a static inheritance but as a flexible and instrumental category through which the Ottoman state could navigate and legitimize political decisions.

A similar logic of selective temporal invocation is evident in a case involving Ahmed Bey, who sought appointment as the *mutasarrif* of Palu following death of his brother, Yusuf Bey. Although Ahmed Bey had served as regent *mutasarrif* of Palu for three years during his brother’s absence for a campaign, the sultan denied his appointment based on a ruling from January 12, 1580, which stated that only the direct descendants of former *mutasarrifs* could hold this position (“*vilayet-i mezbûreye kadîmden eyâlete mutasarrif olanların sulbî oğullarından virilegeldiği*”).⁶³⁶ In

⁶³⁶ Mehmet Ali Ünal, “XVI. Yüzyılda Palu Hükümeti,” *Ondokuz Mayıs University Journal of Education Faculty* 7, no. 1 (November 2014): 248–250.

addition, Mahmud Bey, the son of Hüseyin Can Bey (Yusuf Bey and Ahmed Bey's great-grandfather, who had previously been the *mutasarrif* of Palu and died in July 1575), was replaced by his uncle Hasan Bey on the grounds that he was too young for the role.⁶³⁷ Considering that Ahmed Bey collected excessive and arbitrary taxes (*salgun*) from the people without justification during his duty as the regent *mutasarrif* of Palu, his appointment as *mutasarrif* of Palu was denied on the grounds of a tradition that was attributed to ancientness (*kadîmlik*) and used as a pretext, despite past examples.⁶³⁸

This document clearly demonstrates how the rhetoric of *kadîm* was constructed through the selective invocation of specific precedents and how such a curated past was strategically deployed to legitimize present decisions. In the case at hand, Ahmed Bey's request to be appointed as the *mutasarrif* of Palu was denied based on an alleged custom that, since ancient times, only the direct descendants (*sulbî oğullar*) of former *mutasarrifs* were eligible for the position. Although there were past instances that contradicted this principle, no explicit proof of a continuous tradition was provided. Instead, the binding power of the claimed precedent was amplified through its ambiguous temporality. This illustrates that the authority of *kadîm* did not rest on demonstrable antiquity, but on a vague temporal framing that heightened its normative force in the present.

A particularly illustrative example of selective precedent-making appears in a case discussed by Viorel Panaite concerning a petition (*'arz*) submitted by a Wallachian voivode in the latter half of the sixteenth century.⁶³⁹ According to Panaite,

⁶³⁷ Ünal, "XVI. Yüzyılda Palu ...," 250.

⁶³⁸ Ünal, "XVI. Yüzyılda Palu ...," 249–250.

⁶³⁹ Mustafa A. Mehmet, ed., *Documente Turcești Privind Istoria României 1455–1774*, vol.1 (Editura Academiei Republicii Socialiste Romania, 1976), 144. The translation from Romanian belongs to the

the voivode's predecessor—most likely Mircea the Shepherd, who ruled intermittently between 1545 and 1559—had voluntarily contributed supplies to the imperial kitchen in an effort to strengthen his political position amidst dynastic rivalry.⁶⁴⁰ What began as a strategic and situational gesture was later cited by the Ottoman authorities as precedent and institutionalized as the *mutbâh-ı âmire âdeti* (custom of the imperial kitchen tax).⁶⁴¹ Through the rhetoric of *kadîm*, this once-exceptional act was reframed as a longstanding obligation, effectively transforming political expediency into normative tradition. Rather than merely reflecting continuity, such examples reveal how the language of custom could be used to reshape the past and authorize new expectations under the guise of inherited precedent.

In sum, this section has argued that the authority of *âdet-i kadîme* in the early modern Ottoman Empire derived not solely from chronological antiquity, but from the rhetorical and strategic use of precedent. Drawing upon both theoretical insights and archival evidence, it has shown how customs were selectively framed as ancient in order to legitimize evolving political arrangements. Whether invoked by the state or

author of this thesis: “*Arz prin care unul dintre domnii Țării Românești intervine la Poartă, în numele său și al locuitorilor țării, ca să se anuleze darea pentru bucătăria imperială (Mutbah âdeti). Se motivează că acest ‘obicei’ fusese iertat în trecut. Acum țara abia poate face față haraciului. [A petition through which one of the princes of the Romanian Country intervenes at the Porte, in his own name and on behalf of the inhabitants of the country, to request the cancellation of the payment for the imperial kitchen (mutbah âdeti). It is justified by stating that this ‘custom’ had been forgiven in the past. Now, the country can hardly cope with the tax.]*”

⁶⁴⁰ Viorel Panaite, *Ottoman Law of War and Peace: The Ottoman Empire and Its Tribute-Payers from the North of the Danube. 2nd Revised Edition* (Leiden, The Netherlands: Brill, 2019), 241. See doc. 151 in; Mustafa A. Mehmet, ed., *Documente Turcești Privind Istoria României 1455–1774*, vol.1 (Editura Academiei Republicii Socialiste Romania, 1976), 144. The translation from Romanian belongs to the author of this thesis: “*Mai înainte de aceasta, unul dintre voievozii Țării Românești, fiind un voievod supus al mării-sale maretului padișah, înființase și hotărâse să dea ceva pentru bucătăria împărătească, dar, după aceea, arătându-se neputinta în achitare, voievodul mai sus-amintit, precum și boierii țării, rugându-se și plecându-și fețele la pământ, au cerut iertarea aceluui ‘obicei pentru bucătărie,’ care fusese înființat.* [Prior to this, one of the voivodes of the Principality of Wallachia, being a subject to His Majesty the Great Sultan, had decided to make a contribution to the imperial kitchen. However, after showing an inability to fulfill this obligation, the aforementioned voivode, as well as the boyars of the land, prayed and bowed their heads to the ground, asking for forgiveness for that ‘custom for the kitchen,’ which had been established.]”

⁶⁴¹ Panaite, *Ottoman Law of War ...*, 241.

local actors, *kadîm* functioned less as a marker of actual historical continuity than as a flexible temporal signifier, one that transformed isolated past moments into sources of binding legitimacy. In this sense, what mattered was not the factual age of a practice, but how convincingly it could be embedded within a narrative of enduring tradition. This strategic construction of temporal authority, while not identical to the modern notion of “invented tradition,” nonetheless reveals a similar logic—one in which the past is mobilized to shape the present.

5.3.2 Strategic Temporality: Custom as a Weapon in Resistance and Negotiation

Resistance, negotiation, and conflict in the early modern Ottoman Empire often unfolded through temporally charged claims to custom. References to *‘âdet*, *‘âdet-i kadîme*, or *kânûn-ı kadîm* went beyond evoking inherited norms, but situated rhetorical strategies through which actors at all levels of society sought to assert rights, contest encroachments, or reinforce social standing. Whether voiced in palace ceremonial disputes, guild rivalries, or rural resource conflicts, such appeals were grounded in temporal language—ranging from vague expressions like *kadîmden berü* to personally witnessed recollections. What gave such claims their persuasive power was not factual continuity per se, but the ability to invoke a form of temporal authority—whether vague or precise—that framed the present as rooted in a legitimizing past. This section explores how the construction of custom through time—its imagined depth, its

continuity, and its ambiguity—shaped the stakes and dynamics of contestation. In the Ottoman world, to invoke custom was also to take a position in the politics of time.

Several scholars have noted that discourses of custom tend to emerge in moments of social crisis, legal contention, or resistance to change, and that such claims often derive their normative force from temporal framing.⁶⁴² I share this view, particularly the emphasis on how ambiguous references to antiquity can lend weight to demands that might otherwise lack formal legal grounding. However, I remain cautious about interpretations that reduce such invocations to deliberate distortions or inventions aimed solely at fabricating legitimacy. Rather than treating *âdet* as a static inheritance or a one-sided expression of tradition, I approach it as a socially and discursively constructed language, shaped through institutional encounters, communal disputes, and normative negotiations. In this sense, claims to *kadîmlîk*—to antiquity, to longstanding continuity—function not as indicators of historical fact, but as flexible tools that actors mobilized to assert both continuity and transformation.⁶⁴³ As Stephanie Elsky has noted, invocations of the past often serve to both sustain an existing order and contest innovations within it. The assertion that a practice is ancient, therefore, does not merely preserve tradition—it reactivates it as a tool of political and social engagement.⁶⁴⁴

In the early modern Ottoman period, references to *kânûn-ı kadîm* among imperial elites tended to surface in moments of perceived disorder. These included occasions when ceremonial hierarchies were disrupted, appointments deviated from established custom, or bureaucratic procedures were disregarded. In such episodes,

⁶⁴² Premo, “Custom Today ...,” 360–361; Iurlaro, *The Invention of Custom ...*, 23–31; Elsky, *Custom, Common Law ...*, 24–38.

⁶⁴³ Iurlaro, *The Invention of Custom ...*, 24–31.

⁶⁴⁴ Elsky, *Custom, Common Law ...*, 38.

actors within the palace and high bureaucracy invoked *‘âdet-i kadîme* and *kânûn-ı kadîm* not merely to preserve tradition, but to invoke a temporally grounded vision of legitimate order. These invocations often relied on ambiguous expressions such as *kadîmden berü* or *eskiden berü*, or on selective references to practices from the reigns of previous sultans, deploying a rhetorical strategy that anchored present claims in a normative ideal of the past. As Mehmet Öz argues, such appeals often reflected a nostalgic projection of the so-called “classical age”—an imagined golden era of political and moral order regulated by *‘âdet-i kadîme*. In this context, rhetorics of *‘âdet-i kadîme* or *kânûn-ı kadîm* functioned not merely as descriptive categories but as prescriptive ideals. The following examples show how temporal rhetoric served as a flexible tool to reassert bureaucratic and ceremonial norms in moments of elite-level contestation.

One vivid example of how such temporal rhetoric operated within elite-level conflicts can be found in a dispute from the court of Sultan Murad IV during the 1654 Ramadan festival. On the eve of the Ramadan feast, Sultan Murad IV wished to participate in the customary entertainments held in the *Has Oda* (Privy Chamber), a practice described by his household as a long-standing custom dating back to the earliest sultans. However, the *Kapu Ağası* (Chief of the Gatekeepers), suspicious of the *iç oğlanları* (pages), sought to prevent the event, allegedly out of concern for propriety or security. Although the entertainments ultimately proceeded, they were brought to an early close. The following day, when confronting the *Kapu Ağası* about his intervention, the Valide Sultan strongly defended the entertainments, declaring: “This is a feast night, and my lion is innocent! On such a night, it is *kânûn-ı kadîm* to watch the games and skills of the palace boys.” Her statement invokes ancient custom in emotionally and politically charged terms, appealing to maternal authority, festive

legitimacy, and dynastic continuity. Following the reception and early termination of the evening, the *Has Odabaşı* (Chief of the Privy Chamber) directly accused the *Kapu Ağası* of violating tradition out of envy, asserting: “Have you forgotten that “from the beginning of the Ottoman Empire,” servants in our position have been the most privileged slaves of the sultans? Is it not *kânûn* that sultans, especially on feast nights, enjoy themselves in the *Has Oda*?”⁶⁴⁵

This case demonstrates that appeals to *âdet-i kadîme* were not merely expressions of reverence for tradition, but could be tactically mobilized by different actors to assert influence, resist interference, and negotiate power. Crucially, it is not the sultan himself but his entourage—Valide Sultan and the *Has Odabaşı*—who invoke ancient custom as a discursive resource to push back against the *Kapu Ağası*’s obstruction. Their references to a rule “since the beginning of the Ottoman Empire” or practiced by “former sultans on feast nights” deploy a deliberately vague temporality, one that imbues the claim with the weight of dynastic continuity without requiring precise documentation. By framing the right to hold Bayram night festivities in the *Has Oda* as a *kânûn-ı kadîm*, they seek to reinforce their own proximity to the sovereign while delegitimizing the gatekeeper’s authority. In this context, custom becomes a contested terrain: not a static inheritance but a flexible and contextually mobilized claim to moral, spatial, and institutional entitlement.

In one of his *telhîs* reports, Koca Sinan Pasha explicitly laments the erosion of established custom, invoking *kânûn-ı kadîm* not through vague temporal gestures but by grounding his critique in personal, witnessed experience. Reflecting on recent bureaucratic irregularities, he states that although he has been in the capital for ‘more

⁶⁴⁵ Naima Mustafa Efendi, *Tarih-i Naima*, comp. Mehmet İpşirli (Ankara: TTK, 2007), vol. 5, 1532–1539.

than fifty years' (*50 yıldan mütecâviz*), he claims he has never known of any instance in which someone was granted even a single *dirlik* or additional income allocation within the palace service (*kapu terakkîsi*) from the Imperial Treasury (*Hazine-i Âmire*) without first being formally presented (‘arz) to the sultan.⁶⁴⁶ This precise temporal framing—“fifty years”—stands in stark contrast to the typical use of indeterminate phrases such as “*kadîmden berü*” or “*vakt-i atîkden*.” By situating his testimony within a defined personal timeline, Sinan Pasha asserts the authority of lived memory against recent deviations, offering not just a normative claim but an experiential verification of custom. His language transforms *âdet* into both a historical standard and a moral yardstick, where transgression becomes legible not through abstract principles but through the eyes of a witness embedded in the *longue durée* of Ottoman administration. In doing so, Sinan Pasha mobilizes the rhetorical force of temporal precision to denounce the breakdown of procedural legitimacy and the encroachment of arbitrary appointments, reinforcing the idea that *kânûn-ı kadîm* was not only a principle of continuity but a shared framework of bureaucratic order and ethical restraint.

Just as Sinan Pasha drew on the authority of precise temporal memory to criticize the erosion of bureaucratic norms, actors outside the imperial center—particularly within Ottoman guilds—relied on a different but equally potent temporal language. Custom and its temporal references functioned not merely as legal norms but also as a language of negotiation and a rhetorical strategy. This dynamic is clearly observable in intra-guild relations, inter-guild conflicts, and interactions between guilds and the state. The temporal ambiguity of customary claims created a space in which power could be negotiated, revealing that tradition was neither absolute nor

⁶⁴⁶ Halil Sahillioğlu, *Koca Sinan Paşa Telhisleri* (İstanbul: IRCICA, 2004) 80. “*Sa’âdetlü pâdişâhım bu kulları bu Âsitâne-i Sa’âdet’e geleli elli yıldan mütecavizdir; rikâb-ı hümayûna ‘arzolunmadın Hazine-i Âmire’den bir akçe kapu dirliği ve kapu terakkisi virildüğün bilmezdim.*”

static, but rather open to interpretation and capable of being strategically instrumentalized depending on actors' aims.⁶⁴⁷ In this context, temporal rhetoric was used to structure authority within guilds—governing matters such as work rotation, jurisdiction, and distribution—and to justify external claims regarding rights and privileges.⁶⁴⁸ Ambiguous expressions such as *kadîm* encountered in archival documents thus served not only to define an inherited order, but also to defend existing arrangements, resist innovation, protect vested interests, and reconstitute normative frameworks.⁶⁴⁹ For instance, E. P. Thompson recounts how in 1718, textile workers in southwest England rejected the extension of cloth length by half a yard, arguing that it violated “the ancient laws, usages, and customs” long observed in their trade.⁶⁵⁰ Similarly, Ottoman guilds frequently invoked the phrase “*kadîmden olagelen*” (“from ancient times”) to present their claims to the state as rooted in a time-honored past.

An example of how temporal claims to custom shaped negotiations between occupational groups and the state appears in a 1604 petition submitted by two sailors, Mehmet and Tûrâbî, who objected to a newly imposed tax by certain officials (*ümenâ ve ummâl*) on ship boards (*varol tahtası*) they brought to Istanbul.⁶⁵¹ They argued that

⁶⁴⁷ Yi, *17. Yüzyıl İstanbul'unda ...*, 132.

⁶⁴⁸ Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 1, 135–36. Quoted from Galata JCR 27: 87b/5, H. 1014 (1605). As an example, in a court registration dated June 2, 1605, recorded at the Galata Court, Şaban Reis, the expert (*bilirkişi*) of the sailors in Istanbul, testified that the transport of goods from Istanbul to Erzin was traditionally (*âdeten*) carried out in rotation. He stated that, following Trandafilo Reis, it was now Kominyoz Reis's turn to carry the cargo. His statement was officially recorded by the judge. “*Gemiciler ehl-i hibresi olan Şaban Reis bin Abdullah meclis-i şer’de mahmiyye-i İstanbul’dan Erzin’e giden gemiler ‘âdeten nevbetle gidüp Trandafilo Reis’den sonra nevbet Kominyoz Reis’indir deyü ihbar itmeğin ma-hüve’l-vaki’ ketb olundu tahriren fi 15 Muharremi’l-haram sene 1014. Şühüdü’l-hal Piri bin Nebi, Süleyman bin Hasan, Yusuf bin Murad, Ali hin Ahmed.*”

⁶⁴⁹ Yi, *17. Yüzyıl İstanbul'unda ...*, 135.

⁶⁵⁰ Thompson, *Customs in Common*, 4.

⁶⁵¹ Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 1, 115–116. Quoted from Galata JCR 25: 90b/1, H. 1013 (1604). “*Akza-yı kuzâtî’l-müslimîn evla-yı vülati’l-muvahhidîn ma’denü’l-fazl ve’l-yakîn vâris-i ulûmî’l-enbiyâ ve’l-mürselîn [?] ecma’in bi-mezîd-i inâyeti’l-meliki’l-mu’in el-hâkimü’l-adl be-kazâ-i Galata zîdet fezâ’ilehu tevkî’-i refî’-i hümayûn vâsıl olıcak ma’lum ola ki hâlen Mehmed ve Tûrabi nam re’isler Dersa’âdet’ime arzı hâl sunup biz kadîmden ticâret için sefinemize tahmîl idüp İstanbul’a ve Galata’ya getirdüğümüz varol tahtasından resm namına bir nesne virmeyüp ve ile’l-ân ümenâ ve ummâl tâ’îfesi hâsıl idegelmiş değil iken halen getirdüğümüz varol tahtasına ümenâ ve ummâl tâ’îfesi bî-vech dahi idüp ta’addi iderler hayfdır kadîmden oligeldüğü üzre amel olunup ol vechile rencide*

the levy contradicted established practice, as no such tax had ever been collected “from ancient times” (*kadîmden*). The sailors requested an imperial order to prevent these officials from asserting illegitimate fiscal authority. In response, the sultan issued a decree instructing the qadi of Galata not to allow such illegal taxation, given that no precedent existed in customary practice. This case illustrates how appeals to custom and—particularly when supported by temporally vague language—could function as potent rhetorical tools over sensitive issues such as taxation.

An instructive example of how temporal claims to custom could be used to assert exclusive occupational rights appears in a 1604 petition submitted by Hacı Ahmed, the *kethüdâ* (steward) of the pole porters (*sırık hamalları*) of Galata’s Balıkpazarı quay.⁶⁵² In his petition to the sultan, Hacı Ahmed appeals to the authority of *kadîmü’l-eyyâm*—a phrase invoking the weight of time immemorial—to assert that

eylememek babında emr-i şerîf ricâ ideriz deyü bildirmeğin buyurdum ki hükm-i şerîfim vardıkda göresiz fi’l-hakîka kaziyye i’lâm olunduğı gibi olup bunlar kadîmden şimdîye değin ticâret için gemilerine tahmîl eyledikleri varol tahtasından resm nâmına bir nesne alını gelmiş değil iken halen rencîde eyledikleri vâki’ ise men’ ve def’ idüp kadîmden oligelmiş ve âdet ve kânuna muğâyir mezbûrları bî-vech ol vechile ümenâ ve ummâl tâ’îfesine rencîde ve remîde itdirmeyüp bu husus için tekrâr şikâyete gelmelü eylemeyesiz şöyle bilesiz ve ba’de’n-nazar bu hükm-i hümayûnımı mezkûrlar ellerinde ibkâ eyleyesiz alâmet-i şerîfe i’timâd kılâsız tahrîren fi gurrei şehri-i Cumâdelâhire sene selâse ‘aşere ve elf. Be-makâm-ı Kostantiniyye el-mahrûsa”

⁶⁵² Kuran, ed., *Mahkeme Kayıtları Işığında ...*, vol. 1, 118-119. Quoted from Galata JCR 25: 95a/1, H. 1013 (1604). “Akza-yı kuzâtî’l-müslimîn evla-yı vülati’l-muvahhidîn yenbû’ü’l-fazl ve’l-yakîn vâris-i ‘ulûmî’l-enbiyâ ve’l-mürselîn hüccetü’l-hak ‘ale’l-halk ecma’în el-muhtass bi-mezîd-i inayeti’l-meliki’l-mu’in mevlânâ Galata kadısı zîdet fezâilehü tevki’-i refi’-i hümayûn vâsıl olıcak ma’lûm ola ki mahmiyye-i Galata’da vaki’ Balıkpazarı İskeleyi’nde olan sırık hammâllarına kethüdâ olan Hacı Ahmed nâm kimesne dursa âdetime gelüp kadîmü’l-eyyâmdan vilâyet-i Girid’den ve gayrı limânlardan gelen hamrı Balıkpazarı’nda olan sırık hammâlları kaldırıup hâricden tulumcılar ve Ermenîler ve gayrı hammâllar kaldırmayup dahi ide gelmiş değil iken hilâf-ı mu’tâd Ermenîyân ve tulumcılar ve gayrı hammâllar kaldırmakla mîrîye külli zarar müterettib olduğu mukaddemâ Asitane-i sa’âdetime i’lâm olundukda dahl olunmamak için emr-i şerîf ve hüccet-i münîfe dahl ve ta’arruz iderler deyü men’ olunmak bâbında emr-i şerîf ricâ itmeğin hüccet-i şer’iyye mücebince ‘amel olunmak emr olunur göresiz fi’l-vâki’ kaziyye i’lâm olunduğı gibi olup bu bâbda vech-i meşrûh üzre emr-i şerîfe ve hüccet-i şer’iyye var iken emr-i şerîfim ve hüccet-i şer’iyyeye ve mu’tâd-ı kadîme muğâyir vaz’ eyledikleri mukarrer ise men’ ve def’ idüp mukaddemâ virilen emr-i şerîfim mücebince oligeldüğü üzre ‘amel eyleyüp oligelene muhâlif ve fermân-ı hümayûnuma muğâyir kimesneye iş itdirmeyesiz deyü serdâr-ı nusret-şi’ârım tarafından emr-i şerîf virildüğün bildürüp mücebince südde-i sa’âdetimden mâliye tarafından emr-i şerîf ricâ itmeğin buyurdum ki hükm-i şerîfim vardıkda bu bâbda serdâr-ı nusret-şi’ârım tarafından verilen emr-i şerîf mücebince ‘amel idüp cidden hilâfına rızâ ve cevâz göstermeyesiz şöyle bilesiz ‘alâmet-i şerîfe i’timâd kılâsız tahrîren fi gurrei Rebi’ilevvel sene selâse ‘aşere ve elf. Be-makâm-ı Kostantiniyye el-mahrûsa”

the transportation of liquor arriving from Crete and other ports to the Balıkpazarı had long been the exclusive responsibility of his guild. However, he reports that recently, Armenians and unlicensed porters (*tulumcular*) had begun to intervene in this work, thereby violating customary boundaries. Referring to previous *fermans* and previous court rulings (*hüccets*), Hacı Ahmed requests that these newcomers be prohibited from infringing upon the domain of the Balıkpazarı porters. The sultan responds by issuing a renewed order to the judge of Galata, affirming that liquor arriving at the quay must be transported solely by the long-established pole porter guild and that violators of this custom should be prevented. This case demonstrates how temporal rhetoric—in this instance, the idiom *kadîmü 'l-eyyâm*—was used to assert not only historical precedence but also exclusive occupational jurisdiction. The petition reframes an economic conflict as a violation of ancestral order, mobilizing imperial precedent and normative continuity to defend the guild's authority. The invocation of “ancient” custom here functions as both a defensive and exclusionary mechanism, transforming a practical dispute into a matter of legal and moral legitimacy grounded in temporal depth.

According to Eunjeong Yi, certain customary practices—particularly those lacking codified form—were open to competing interpretations by different guilds.⁶⁵³ This interpretive flexibility reveals both the horizontal dimension of custom, across regional branches of the same profession, and its vertical dimension, within hierarchical guild structures.⁶⁵⁴ As Yi further demonstrates, central and provincial branches of a single guild could advance distinct customary claims to redistribute shared obligations, such as tax burdens, in ways that served their respective interests.⁶⁵⁵ These examples make clear that appeals to *kadîm* were not merely

⁶⁵³ Yi, *17. Yüzyıl İstanbul'unda ...*, 140.

⁶⁵⁴ Yi, *17. Yüzyıl İstanbul'unda ...*, 140.

⁶⁵⁵ Yi, *17. Yüzyıl İstanbul'unda ...*, 136.

references to the past; they were temporally framed assertions, strategically mobilized to shape the present and protect concrete advantages.

While many of the previous examples illustrate how temporal references to *kadîm* were deployed to resist novelty or protect established privileges—especially within elite and guild contexts—such rhetoric could also be employed to justify innovation or assert rights in contested social spaces. As Suraiya Faroqhi demonstrates through cases drawn from seventeenth-century central Anatolia, references to past practice were not confined to conservative impulses. In certain circumstances, they served as legitimizing tools for townspeople or villagers seeking to defend new initiatives or secure longstanding communal entitlements against more powerful or institutional actors.

Suraiya Faroqhi provides a striking example of how references to past usage could be mobilized not to resist, but rather to defend contested innovations in urban settings.⁶⁵⁶ In a 1609–10 case recorded in the *Mühimme Defteri*, townsmen of Kayseri defended the right of Hacı Ferhad, a military man (*sipâhî oğlanı*), to build a coffeehouse adjacent to the city walls, despite the objections of the fortress commander. In their petition, they referred to the long-standing presence of other buildings—such as a mosque, a school, and shops—near the same location, arguing that since these older structures had not caused any damage, the coffeehouse would similarly pose no threat. Faroqhi interprets this as an instance where appeals to precedent were strategically deployed not to oppose change, but to legitimize it, even in the case of a socially and religiously contentious institution like the coffeehouse. The dispute also reveals a deeper conflict over normative authority: while the

⁶⁵⁶ Faroqhi, “Political Activity ...,” 6.

townsmen grounded their justification in established urban usage, the fortress commander dismissed the coffeehouse not on religious grounds, but on the basis of structural damage to the city walls. This episode thus illustrates how appeals to past practice could function as discursive weapons in negotiations between different social actors—civilians and military officials—vying for control over urban space and normative legitimacy.

Faroqhi has observed that petitioners in early modern Ottoman society frequently invoked references to the distant past in order to assert and legitimize their claims.⁶⁵⁷ As an example, she cites a case recorded in the *Mühimme Defteri* from 1646–47 concerning a dispute over water rights in the village of Arguncuk near Kayseri.⁶⁵⁸ A close reading of an imperial decree issued in 1056/1646–47, concerning a water dispute in the village of Arguncuk near Kayseri, reveals a more nuanced dynamic than

⁶⁵⁷ Faroqhi, “Political Activity ...,” 6.

⁶⁵⁸ BOA, A.DVNS.MHM.d.91-25, H-16-01-1056. “Kayseriyye kadısına hüküm ki: Nefs-i Kayseriyye kazasına tâbi ‘Arguncuk nâm karye ahâlisi âdem gönderüp ve arz-ı hâl eylediler ki; ‘bunların karyesi kurbinde vâkı’ Horsana nâm karyeden çıkan bınardan cârî olan nehir kadîmü’l-eyyâmdan bunların zikrolunan Arguncuk karyesinin toprağında cârî olup bahâr eyyâmında kadîmden olıgeldüğü üzere dört beş yirden bendleri ve harkları olmağla tasarrufında olan tarlaların ve bostanların saky ve isti‘mâl idüb müstekıl suları olup bu âna değin âhârdan kimesne mu‘âraza idegelmişler değil iken nefs-i Kayseriyye kurbinde vâkı’ Köşk Medresesi’nün hâlâ Müderrisi olan Şeyh Seyyid Mehmed mütegalibeden olmağla bunların kadîmî cârî olan suları için; “Defter-i cedîdde senede bin beş yüz akça icâreye bağlu olan Âb-ı Köşk ve Pervâne, bâzer suyudur.” diyü kadîmden cârî olan sularının bend ü harklarına sedler çeküp iki seneden berü nehrün kurbinde ahâr kimsenelerün tarla vü bostanlarına hilâf-ı şer‘-i şerîf icrâ itidürüp ve bey’ idüp küllî muzâyaka virüp lâkin Şeyh-i mezbûrun nizâ‘ eyledüğü Köşk ve Pervâne suyu bunların karyesinden kuşlukluk yol mesâfe-i ba‘idede vâkı’ başka mahalde olup bunların karyelerine cârî olan mahsûs sulara kat‘â alâkası yoğiken Şeyh-i mezbûr kanâ‘at itmeyüp mücerred celb u ahz için vech-i meşrûh üzere te‘addi eyledüğün ve bu bâbda şeyhu’l-İslâmdan fetvâ-yı şerîfesi olduğun” bildirüp mücebince amel olunup icrâ-yı hakk olmak bâbında emr-i şerîfüm reca eyledükleri ecîlden, kadîmden cârî olduğü üzere icrâ itidürilmek emrüm olmuştur. Buyurdum ki: Vusûl buldukda, bu bâbda sâdır olan emrüm üzere amel idüp dahi husûs-ı mezbûra onat vechile mukayyed olup vilâyetin müsinn ü mu‘temedün-aleyh, bî-garaz u ehl-i vukûf kimesneler ile bâzâra üzerine varılıb tamâm hakk u adl üzere tefahhus ve bâbda olan fetvâ-yı şerîfesine nazar idüp göresin; nizâ‘ olunan su, ol dahliden Şeyh-i mezbûrun mutasarrıf olduğü Medrese’nin defterde mukayyed Köşk ve Pervâne suyu bâzer icâreye bağlu cârî olan suyundan olmayub fi’l vâkı’ ma-tekaddemden berü bu bunların kurasının civârında vâkı’ Horsana nâm karyede çıkan bınardan cârî olan mahsus u müstekıl suları olup kadîmden bu âna değin hilâf-ı şer‘-i şerîf iki seneden berü Şeyh cebren alub ahâr kimesneler bey’ idüb muzâyaka virüb gadr eyledüğü vâkı’ ise cayiz değildir; men’ u def’ ve bu bâbda fetvâ da’vâlarına muvafık ise ol bâbda muktezâ-yı şer‘-i kavîm ve fetvâ-yı şerîfe mücebince amel idüb kadîmden cârî olan suların ne mahâlde cârî olagelmış ise ol vechile icrâ itdürüb min-ba’d şer‘-i şerîfe ve fetvâ-yı münîfe ve kadîmden olıgelene ve emr-i hümayûnuma muhâlif kimesneye iş itdürmeyesin.”

Suraiya Faroqhi's summary suggests.⁶⁵⁹ In a decree sent to the qadi of Kayseri, the villagers reported that their access to a water source was being blocked by Şeyh Seyyid Mehmed, the *müderriş* of the Köşk *medrese*. According to the villagers, they had been using the stream—originating from a spring near the village of Horasana—to irrigate their fields and gardens “since ancient times” (*kadîmden olıgeldiği üzere*), without any previous interference by others (*ahârdan kimesne mu‘âraza idegelmişler değil iken*). Their complaint framed water access as a customary right embedded in collective memory and implicitly legitimized by its uninterrupted use over generations.

In response, Şeyh Seyyid Mehmed claimed that the water in question belonged to the Köşk and Pervâne waters, which were registered in the new cadastral survey (*defter-i cedîd*) with an annual tax value of 1500 *akçe*, and that he was their legal tax collector (*mutasarrıf*). He further claimed that his position was supported by a fatwa from the *şeyhülislâm*, although the document does not confirm whether such a legal opinion was actually presented. However, according to the document, the Köşk and Pervâne waters were located far from Arguncuk and were unlikely to be connected to the stream in question. The record suggests that Mehmed remained unconvinced and continued to restrict the villagers' access.

The sultan instructed that the matter be investigated by a group of impartial, trustworthy, and knowledgeable elders (*müsinin, mu‘temedün-aleyh, bî-garaz u ehl-i vukûf*) tasked with inspecting the site and assisting the qadi, who would ultimately examine the fatwa and issue a judgment. If the stream proved to be the Köşk and Pervâne waters, Mehmed's claim would be upheld in accordance with the legal

⁶⁵⁹ Faroqhi, “Political Activity ...,” 6. Faroqhi, while citing this document, does not mention the counterclaim made by Şeyh Seyyid Mehmed or the conditional nature of the Sultan's response, instead presenting the decree as a straightforward affirmation of the villagers' rights. This reading overlooks the procedural and contested aspects of the case as reflected in the original text.

opinion; otherwise, the villagers' claim would prevail, and Mehmed's obstruction would be considered unjust. As this case demonstrates, *kadîm* was not a definitive source of authority on its own but functioned as a rhetorical and evidentiary strategy, particularly for rural communities seeking to assert rights in the face of intervention. The final decision hinged not on the antiquity of the claim alone, but on its substantiation through documentation, local testimony, and religious opinion.

In sum, strategic appeals to custom in the early modern Ottoman world were not simply backward-looking affirmations of tradition, but forward-oriented tools for navigating legal uncertainty, institutional disruption, and social competition. Whether vague or precise, invocations of *kadîm* created a temporal framework through which actors across social strata could assert rights, resist authority, or legitimize contested practices. The persuasive power of such claims lay not in their empirical verifiability, but in their capacity to locate present interests within a recognizable—if imagined—temporal lineage. As such, custom functioned not only as a repository of the past but as a living political language through which the future could be shaped.

CHAPTER VI

CONCLUSION

This thesis has examined how time was perceived, conceptualized, and instrumentalized in the early modern Ottoman world through an analysis of the temporality of *‘âdet-i kadîme*. By using this concept as an analytical lens, the study offered a new perspective on both the Ottoman legal-political frameworks and broader social understanding and experience of historical time. As a body of social values, behavioral norms, and entrenched practices, customs reflected not only collective socio-normative frameworks, but also the temporal structures through which time itself was socially experienced and reproduced. In this light, the sultan’s codification of local customs reveals that *‘âdet-i kadîme* was not merely a socially constructed body of norms, but also a reflection of the state’s temporal imagination—an official articulation of how the past was remembered, stabilized, and projected into a vision of imperial order.

It has been demonstrated that the temporality of *‘âdet-i kadîme* in the early modern Ottoman world was not a passive chronological backdrop, but an actively constitutive force in shaping legal legitimacy, political authority, and historical processes of continuity and change. Rather than serving as a neutral marker of time, it operated as a generative medium through which normative structures were stabilized,

adapted, and legitimized. Far from being a static memory of earlier practice, the temporality of *âdet-i kadîme* provided a framework for organizing the past, aligning it with the present, and authorizing future expectations. By analyzing this process, the thesis offered a deeper understanding of time as a socially embedded and politically instrumental category in early modern Ottoman thought and governance.

Building on the methodology of conceptual history, this study analyzed temporal expressions found in a range of early modern Ottoman archival sources—including *mühimme defterleri* (registers of important affairs), *kadı sicilleri* (judicial court records), and *sancak kânûnnâmeleri* (district law codes)—through conceptual, contextual, semantic, and hermeneutic approaches. Phrases such as *kadîmden berü* (“since time immemorial”), *babam/atam/ceddim zamanı* (“in the time of my father/ancestor”), and *oligeldiği üzere* (“as it has been practiced”) may appear at first glance to reference a vague and indefinite past. However, it has been showed that these seemingly ambiguous expressions were deeply embedded in specific socio-legal contexts and collective memory. Far from being empty formalities, they functioned as rhetorical tools to assert historical continuity, social embeddedness, and normative authority.

The thesis demonstrated a comparative analysis of the meanings and functions of ambiguity in classical Islamic and early modern Ottoman contexts to reveal the role of ambiguous temporality of *âdet-i kadîme*. It contends that temporal ambiguity should not be dismissed as mere vagueness or semantic deficiency; rather, it enabled discursive flexibility and pragmatic adaptation. Such ambiguity served as a rhetorical resource for constructing authority and legitimacy—often through the evocation of continuity, timelessness, or universality. In this light, the temporal expressions evoking the antiquity of *âdet-i kadîme* should not be viewed as empty formalities, but as

essential discursive tools for narrating how the past was remembered, reconstructed, and rendered authoritative. These expressions therefore stand as key textual artifacts that illuminate the epistemological and normative relationship between early modern Ottoman society and time itself.

This framework is particularly evident in the codification of local practices during the *tahrîr* (cadastral survey) process, where temporal references ranged from precise attributions—such as “*Hasan Pâdişâh kânûnları*” (“the laws of Sultan Hasan”), “*Kayıtbay kâ'ideleri*” (“the regulations of Sultan Qaytbay”), or “*otuz yıldan mütecâviz*” (“practiced for more than thirty years”)—to more ambiguous formulations like “*kırallar zamanında*” (“in the time of the kings”), “*eskiden berü*” (“since old times”), and “*kadîmden berü*” (“since time immemorial”). These layered temporal markers reveal how specific local practices were embedded in communal and individual memory, often traced back to pre-Ottoman lineages, appropriated by the central authority, and transmitted through generations. By analyzing these expressions, this thesis showed that temporality operated not simply as chronological framing, but as a legitimating force within both imperial legal discourse and the collective social imagination.

To further illuminate the temporality embedded in the formation of *âdet-i kadîme*, this thesis also examined the evaluative categories of *hâdis* (novelty) and *bid'at* (innovation), which shaped how practices were perceived, contested, and transformed over time. It demonstrated that practices initially labeled as *hâdis* or *bid'at* could, through processes of social acceptance and practical utility, gradually acquire normative legitimacy and eventually be absorbed into the domain of custom. In this way, *âdet-i kadîme* not only preserved continuity but also served as a conduit through which change could be introduced and naturalized. This analysis underscored that the

relationship between custom and temporality was central to the production of legitimacy and authority in the early modern Ottoman Empire. Furthermore, it revealed that continuity and change were not perceived as binary opposites, but as interwoven and historically contingent processes of negotiation and reinterpretation. By presenting *‘âdet-i kadîme* as a dynamic and contextually reconfigured structure, the thesis challenged essentialist views that portray Ottoman society as rigidly traditional or inherently resistant to change.

Furthermore, this thesis has analyzed how the temporal character, historical continuity, and enduring presence of *‘âdet* enabled the Ottoman sultan to incorporate customary practices into the framework of customary law, thereby reinforcing their legitimacy and normative authority. Through this integration, *‘âdet-i kadîme* emerged not merely as a vestige of past practice, but as a shared idiom of order that mediated interactions between individuals, communities, and the state. In this capacity, it played a decisive and dynamic role in articulating imperial authority within early modern Ottoman political thought.

To deepen this analysis, the thesis turned to the transformation of one of the most fundamental concepts in Islamic political thought: *emr bi’l-ma’rûf ve nehy ‘ani’l-münker*—the divine injunction to command right and forbid wrong, frequently cited in the Qur’an and Hadith. While this principle has often been interpreted in binary moral terms (good vs. evil), the Ottoman context reveals a semantic and practical shift. Over time, *ma’rûf* came to be closely associated with *‘örf* (custom), while *münker* was increasingly linked to *bid‘at* (innovation). This conceptual realignment positioned *‘âdet-i kadîme* not only as a repository of accepted norms, but as a practical mechanism for ensuring social harmony and political legitimacy—fully aligned with the sultan’s responsibility to uphold both sharia and imperial order. In this light, *‘âdet-i kadîme*

became a bridge between divine law and administrative pragmatism, embodying the normative expectations of society while serving the governing aims of the state.

Accordingly, *‘âdet* is presented not merely as a traditional or static inheritance from the past, but as a temporal-normative framework through which inherited values actively shaped the present in pursuit of the ideal world order (*nizâm-ı ‘âlem*) and projected normative expectations into the future. *‘Âdet-i kadîme*, in this light, did not serve as a passive tradition resistant to change; rather, its flexible temporality allowed it to underwrite legitimacy, structure authority, and regulate conduct. Taken together, this thesis redefines time not as a neutral medium for transmitting the past, but as a constitutive category—one that sustains imperial order, animates political imagination, and integrates past, present, and future within a coherent structure of governance and legitimacy.

Finally, this thesis approached *‘âdet-i kadîme* not merely as a political instrument, but as a form of embodied practical knowledge that permeated all levels of Ottoman society. It functioned as a normative framework that defined the duties and boundaries of distinct social groups (*ta‘ife*) and operated as a dynamic discourse through which appeals to precedent were strategically deployed to legitimize present claims. In this regard, *‘âdet-i kadîme* is understood not simply as a representation of the past, but as an active and living mechanism of collective memory—one that established a normative continuum linking past, present, and future.

While this thesis engages with Eric Hobsbawm’s influential notion of “invented tradition”—a widely adopted analytical framework in Western historiography on the temporality of custom—it moves beyond it by demonstrating that the idea of “*kadîm*” in the Ottoman context was seldom a purely top-down

invention imposed by the central authority. Instead, *kadîm* emerged within a conceptual field shaped by contextual recollection, association with prior models, strategic reconstruction, discursive negotiation, and the cumulative acquisition of legitimacy over time. The active deployment of such temporal constructs by both the imperial center and various social actors transformed *‘âdet-i kadîme* into more than a recollection of the past: it became a normative resource for structuring the present and envisioning the future.

Accordingly, *‘âdet-i kadîme* emerged in this study as a flexible and multilayered instrument—one that enabled both the preservation of existing order and the legitimation of new regulations. By analyzing this temporal construct, the thesis shifted the focus from asking what time “is” in the early modern Ottoman world to exploring how time functioned: how it was perceived, internalized, and mobilized as a tool of governance. In doing so, it offered a conceptual contribution to the study of time by revealing how temporality underpinned the production of legitimacy across legal, political, and social domains—encompassing both continuity and transformation.

In sum, this thesis has demonstrated that the temporality of *‘âdet-i kadîme* functioned as a central mechanism for producing legal and political legitimacy, shaping both imperial governance and social normativity in the early modern Ottoman Empire. Rather than portraying custom as a static residue of the past, the study has shown that its temporality was fluid, contextually negotiated, and discursively powerful—enabling both the preservation of order and the legitimation of change. Through a close reading of archival expressions, legal codifications, and conceptual transformations, the thesis has illustrated how custom served as a dynamic interface between memory and authority, between communal experience and imperial

imagination of order. “In doing so, this study not only reframes our understanding of *‘âdet-i kadîme*, but also contributes to a broader rethinking of time as a socially embedded, politically mobilized, and legally consequential category in early modern Ottoman thought.

While this study has focused on one critical dimension—customary temporality—it opens the door to a broader inquiry into how time itself was structured, contested, and lived in the early modern Ottoman Empire. This thesis did not aim to reconstruct the entire mosaic of early modern Ottoman temporal thought, but rather to place one significant tile within it—the temporality of *‘âdet-i kadîme*. By analyzing how this specific form of temporal reasoning functioned as a normative and legitimating structure, it offers one lens into the broader Ottoman temporal imagination. However, *‘âdet-i kadîme* represents only one dimension among many. A more comprehensive understanding of how time was perceived and utilized in the early modern Ottoman Empire would benefit from further research into additional domains of temporal experience.

Future studies might explore the multiplicity of temporal frameworks that shaped both the perception and organization of time in the early modern Ottoman Empire—beyond the normative domain of custom. These could include religious temporalities (structured by ritual calendars, fasting periods, or daily prayer cycles), administrative and bureaucratic time (petition deadlines, fiscal reporting, or annual rotations), seasonal and agricultural rhythms (planting, harvest, or irrigation cycles), and military or political temporalities (such as the timing of campaigns or tax collection). Likewise, festive and cyclical markers—holidays, public celebrations, and weekly market days—structured communal rhythms and social memory.

Rather than focusing solely on timekeeping instruments such as calendars or clocks, future research could investigate how these various temporal frameworks were perceived, embodied, and negotiated in everyday life. Examining how different communities—urban and rural, Muslim and non-Muslim, elite and subaltern—experienced and articulated time may shed light on the plurality of temporal sensibilities within the Ottoman world. In doing so, such studies could offer a richer understanding of temporality not as a fixed chronology, but as a socially embedded and culturally constructed dimension of historical experience.

Such inquiries could further benefit from comparative approaches. For instance, exploring how temporal perceptions differed across confessional or ethnic lines—between, say, Armenian, Greek Orthodox, and Muslim communities—would shed light on the plural temporalities that coexisted within the empire. Likewise, attention to the spatial experience of time might reveal how rural and urban populations related differently to cyclical rhythms and temporal authority. Future research might also explore changes in temporal perception between the early modern and nineteenth-century Ottoman contexts, particularly in light of reformist projects, new technologies, and the globalization of temporal regimes. Finally, comparative work across early modern polities—such as the Safavid, Habsburg, or Mughal empires—could offer broader insight into how conceptions of time were entangled with governance, law, and memory across imperial worlds.

Ultimately, broadening the temporal lens in these directions can deepen our understanding of the Ottoman experience while contributing to global debates on how time—as both a cultural construction and political instrument—shaped historical worlds. Such approaches would not only refine our grasp of early modern Ottoman temporalities, but also place them in productive conversation with wider

historiographical efforts to understand the multiplicity of temporal frameworks across empires, societies, and legal orders.



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