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## Government of the Ottoman Empire

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Albert Lybyer, *The Government of the Ottoman Empire in the Time of Suleiman the Magnificent*, Russell, 1913

[The book is written completely from contemporary European accounts and almost wholly from European sources except for one Jounis Bey who might have been a devshirme.]

*Notes: This is an old book. Today the word "Mohamadan" is recognized to be an insult because it implies that Muslims worship Mohammad. We do not necessarily agree with the author's comments -especially the ones on some islamic religious practices-. Spelling also differs from newer books but the book is still valuable as a document on history.*

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p. 7

This survey leads to a number of significant observations. First, the Ottoman Turks of the sixteenth century ruled countries wholly within the sphere of the Mediterranean civilization. The only possible exception was the steppe lands north of the Black Sea. Thus the Ottoman Empire, except in remote regions, which indeed, profoundly influenced it, grew and flourished within what is commonly considered the main field of history. Accordingly, it has a greater claim upon the Western world on the score of kinship than has hitherto generally been allowed.

Second, within the Mediterranean civilization the Ottoman Empire combined regions of both Orient and Occident. The classical world knew chiefly Romans, Greeks and Orientals. The Ottoman Turk succeeded to two-thirds of this world, the lands of Greece and east...No deep knowledge of historical forces is necessary to suggest that neither in Southern Europe nor in Asia Minor itself could be teachings of fourteen centuries or more be obliterated in five centuries or less, or even in an eternity; nor would they fail to exert a profound influence from the moment of conquest. To regard the Ottoman Empire as a mere Oriental state would be to misread history and to misunderstand human nature. Its lands were of both Orient and Occident, so were its people, so also were its culture and its government.

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Third, the Ottoman Turks drew men and ideas from both Mohammedans and Christians. They have commonly been regarded as wholly Mohammedan, and therefore they have been shut off by a well-nigh impenetrable barrier from the sympathies of the world still possessed by the prejudices of the crusading days. The foundations of such prejudices are easily open to attack. The main religious ideas of Mohammedanism are not, except as to the divinity of Christ, inharmonious with those of Christianity; they were, indeed, in all probability drawn chiefly from the religious teachings of the Old Testament. The social system of Mohammedanism is also much like that of the Old Testament. Its most objectionable features, the seclusion of women, polygamy, and slavery, may be regarded as survivals from an older condition of mankind out of which a portion of the human race has emerged-- not without frequent cases of atavism--and which Mohammedans themselves are tending to

abandon...

It is true that as a nation the Ottoman Turks remained Mohammedan; this has constituted the real "tragedy of the Turk." Bound hand and foot by that scholastic Mohammedanism which was reaching rigid perfection at the time when the Turks first became prominent in the Saracen Empire, and which only in very recent days seems to be tending toward a Reformaton, they could not amalgamate the subject Christian peoples, already confirmed in nationalism by the events of centuries. The deadening system stilled their active spirits, imprisoned their extraordinary adaptibility, and held them at a stage of culture which, though in some respects it distinctly led Europe in the sixteenth century, was before long passed through and left behind by hte progressive West. Nevertheless, the Turks were no more limited to Mohammedan ideas than to Mohammedan men, and they are entitled to be considered in the light of their double origin.

Fourth and last, the great task before the Ottoman Turks was a work of unification. Lands which had been united under the great Theodosius, and then during eleven centuries had been more or less disintegrated by invasion of German, Slav, Arab, Tatar, and Turk, by war of Byzantine, Persian, Moslem, Crusader, and Mongol, by destruction of roads and safe water-routes, and by general decay of civilization, until confusion and disorder reigned and anarchy seemed not far ahead--these lands were once more brought under single control. Was it their destiny to be genuinely reunited, not merely in a common subjection, not merely by an external shell of authority, but in the pulsing life of a vigorous nation, harmonious in every part and run through by patriotism ? This was a well-nigh insoluble problem which the Ottoman Turks attempted bravely. How they solved the administrative and governmental phase of it the present treatise will try to show. Religious unity was out of the question; and in the sixteenth century, in East and West alike, social and cultural unity waited upon the religious.

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It may seem a contradiction in terms to speak of despotism as limited; yet a little reflection will show that there never has existed and can never exist a despotism that is not limited.... The great limitation upon the power of the Ottoman sultan was the Sheri [Sharia], or Sacred Law of Islam, which claimed to be wholly above him and beyond his alteration. He might by violence transgress its provisions, but he had even then done it no damage; it was still what it had been. And he knew well that his transgressions must not be too many, and must not at all touch certain matters, else he would have declared to have forfeited the throne. The Sacred Law divided with him the allegiance of his Mohammedan subjects; it demanded to be consulted before he removed the head of a criminal, or went to war with an enemy; it took for itself the revenues of a large share of his lands, and so controlled the imposition of general taxation as seriously to embarrass his finances; it even protected his Christian subjects from all efforts of his to bring them forcibly under his sway; it entered into his very spirit and persuaded him to relinquish harmless pleasures, while it supported him in the execution of able and worthy brothers and sons. The Sheri was a form of rigid constitution which by its own provisions was incapable of amendment. It purported to regulate for all time the matters included in its scope. Open to a small measure of modification by juristic interpretation, it was probably on the whole as changeless a system as has ever prevailed among men. The sovereign had no right to modify it in the least respect...

Restricted thus by an unchangeable constitution, by the presence of deep-rooted laws and institutions, and by the settled customs of a highly conservative people, the power of the Ottoman sultan could only be exerted freely in certain directions only. What these were will

appear as the scheme of government is unfolded.

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The impending break-down of the system near the close of the sixteenth century is also set forth clearly by Zane: "The government of the Turkish Empire is suffering within itself so many and such great alterations, that one may very reasonably hope, divine aid mediating, for notable revolution within a short time, because the native Turks continue to sustain the greatest dissatisfaction, from seeing all the confidence of the government reposed in the renegades, who at a tender age for the most part, are taken into the seraglio of the king or of private citizens, and made Turks. To the renegades is committed not merely the care of arms, but the entire command and the execution of the acts of justice of the kazis [kadis] (although they do not allow appeals), and the superintendence of religion; whence one may say that they rule everything and that the native Turks are their subjects as are servants to their masters; which was not true in other times to such excess as present." *Notes and comments inside square brackets i.e. [...] are editorials and do not belong to the book. Here's one: [Sultan Mehmet II. had done away with the last Turkish nobility {i.e. Chandarlioglu} to have had any input in the government (sometime after 1453) and the control had passed entirely into the hands of the devshirme. This is that time period. Later, sons of the Janissaries began to be allowed to enter, and then it was opened to others. By 1638 there was no more devshirme since, all the positions could now be filled by volunteers. The last conscription of Christian boys was sometime in the 1500s. So many changes were taking place at this time. The Turkish population was upset at being completely shut out of the government. Despite what superficial historians say, by this time the seed of corruption had already been sown since the people recruited via the devshirme or voluntary conversion of renegades were mostly out for money. The system had already failed by this time. The system was only going forward by inertia which was built up during the in the early centuries, mostly by Turks. Popular comments that the Janissaries (i.e. Christian converts) "created" the empire which obviously could not have been created by these "Asiatics" can still be found, sadly even on TLC, The Learning Channel. That the nomadic Turks were quite able to rule over others can be seen throughout history.]*

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Perhaps no more daring experiment has been tried on a large scale upon the face of the earth than that embodied in the Ottoman Ruling Institution. Its nearest ideal analogue is found in the Republic of Plato, its nearest actual parallel in the Mameluke system of Egypt; but it was not restrained within the aristocratic Hellenic limitations of the first, and it subdued and outlived the second...The Ottoman system deliberately took slaves and made them ministers of state; it took boys from the sheep-run and the plow tail and made them courtiers and the husbands of princesses; it took young men whose ancestors had borne the Christian name for centuries, and made them rulers in the greatest of Mohammedan states, and soldiers and generals in invincible armies whose chief joy was to beat down the Cross and elevate the Crescent.

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The Ruling Institution contained certain component parts, which were capable of separate existence, and some of which at times tended to escape complete control. Among these the best known, though not intrinsically the most important was the body of permanent infantry known as the Janissaries. They represented the brute force of the system and its most dangerous element. Another component..was the permanent cavalry known as the Spahis of the Porte. They were more numerous than the Janissaries, but being better educated and

encouraged by the presence of greater opportunities, they were not as dangerous [to the sultans].

p. 51

Although the levying of tribute boys in the Christian provinces of the empire seems not to have produced the majority of neophytes for the system, the practice has always received a share of attention far beyond its numerical importance. In the first place, it rested on a unique and almost unparalleled idea; then it involved an extraordinary disregard of human affection and of the generally acknowledged right of parents to bring up their children in their own law and religion; and finally, it produced the ablest and highest officials of the system.

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Parents who wished to keep their sons would sometimes marry them in their tender years, since the married boys were ineligible; those who had means bought exemption for their sons from the recruiting officers, who thus reaped great rewards(1). On the contrary, many parents were glad to have their sons chosen, knowing that they would thus escape from grinding poverty (2), receive a first rate training suited to their abilities, and enter upon the possibility of a great career. Some parents, in fact, came to regard the process as a privilege rather than as a burden(3); and they had every reason to do so, since the Turkish parents envied them the opportunity, and sometimes tried to evade the regulations by paying Christians to take their Moslem sons, and declare them Christian children, so that they may be enrolled as the sultan's slaves(4).

*[Footnotes at the bottom of the page:] 1. Spandugino, 144, 145 2. Trevisano, 130 3. Ibid 4. Bernardo, 332, says that in 1592 after the system had been dislocated, that the greater part of the recruits were then sons of Turks. [It's obvious that the trade-off between escaping poverty and being soldiers and facing death is a difficult one. However, even today, military conscription is seen in most countries as an honorable duty. And in cases such as the USA when the liberal and humanist thinkers decided to make a more 'fair' system by making it 'voluntary' the same problem remains. Only the poor and illiterate will volunteer and to take chances in fighting and dying. The fringe benefits like the GI education bill are along the same lines. Volunteer army is not just, completely the reverse.]*

p. 56 THE HAREM, THE EUNUCHS, AND THE ROYAL FAMILY

..The character of an Oriental harem has often been set forth incorrectly. While it may contain hundreds or even thousands of women, a very few of these are the actual consorts of the monarch. A large number are personal servants and entertainers of himself, his mother his consorts, his daughters or his infant sons. Another section consists of those being educated for some personal service. A fourth group, probably the great majority, are mere house-servants, who attend to all the domestic labors of the harem and are seldom promoted to more honorable positions. There is finally, a group of older women who preserve order and peace, teach, keep accounts, and manage the establishment generally.

Suleiman's harem contained about three hundred women.. In another respect the harem deserves to be reckoned with the Ruling Institution, in that its inmates, upon attaining the age of twenty-five, were, if they had not attracted the sultan's special attention, as a rule given in marriage to distinguished Spahis of the Porte.

..Although the Sacred Law strongly disapproved the employment of eunuchs, that unfortunate class was thought too useful to be dispensed with entirely. Some were white, brought mainly from the Caucasus region; but the great majority were negroes brought from

Africa...The class deserves mention because several of the important offices of state among the "men of the pen" were held by eunuchs, and now and then rose to high place in the army and administration.

The royal family also may be rightly included in the slave- family. The mothers of the sultan's children were slaves; the sultan himself was the son of a slave; and his daughters were married to men, who though they might be called vizier and pasha....bore indelibly the title of kul, or slave. The sultan's sons, though they might sit upon the throne, would be the consorts of none but slaves. Long before Suleiman's time, the sultans had practically ceased either to obtain brides of royal rank, or to give the title of wife to the mothers of their children.

#### p. 60 CHARACTER OF OTTOMAN SLAVERY

Ottoman slavery was a very different institution from that which Anglo-Saxons have practiced. In it there could be no color-line, and therefore no ineffaceable distinction. Where difference in color existed it counted for nothing, by old Islamic customs. Nor did the fact of slavery impart any indelible taint....The slave who was set free was immediately in possession of full rights. Slavery had therefore no inherent quality. It was merely an accidental misfortune from which complete recovery was possible. The idea of Aristotle, that some men are born to be slaves, was wholly absent.

Where no permanent wall of separation exists, natural human affection can have free play...Such friendliness often led to warm affection and the bestowal of benefits. Emancipation was one of these; and further, not only the sultan but many of his subjects did not hesitate to give their daughters in marriage to worthy slaves.(7)

*[Not too many people seem to be aware of indentured servitude and bondage practiced in Europe and America so I decided to include the whole footnote.]*

*Footnote: 7. Spandugino, 180. It may be observed that Ottoman slavery bore no slight resemblance to the method of bondage which brought from Europe many ancestors of present-day Americans. In the year 1730, says Mrs. Susannah Willard Johnson (in her Narrative of Captivity, reprinted Springfield, 1907, pp.5-6) " my great uncle Colonel Josiah Willard, while at Boston, was invited to take a walk on the long-wharf, to view some transports who had just landed from Ireland' a number of gentlemen present were viewing the exercise of some lads who were placed on the shore to exhibit their activity to those who wished to purchase. My uncle spied a boy of some vivacity, of about ten years of age, and who was the only one in the crew who spoke English: he bargained for him. I have never been able to learn the price; but as he was afterwards my husband, I am willing to suppose it was a considerable sum...He lived with Colonel Willard until he was twenty years of age, and then bought the other year of his time." In this account a number of characteristics of the Ottoman system can be observed. Young boys of Caucasian blood are taken from their native land; they are bought and sold; they are judged like young animals by appearance and physical activity; no taint attaches to their bondage; they may marry into the master's family. The one noteworthy difference is that the bondage terminates at a definite age.*

#### p. 61

A slave was often beloved above a son; it was felt that, while a son possessed a character which was more or less a matter of chance, a slave had been selected. Thus it was clear why the sultan's slaves were often his children and why the title of kul was prized. Suleiman was a stern and sometimes cruel parent to his great family; but he was as just in rewarding as in

punishing, and it is not surprising that all his slaves were true to him.

#### p. 66 THE REQUIREMENT OF CONVERSION

Conversion was a principal object of the system, and favor and promotion waited as rewards upon acceptance of the Moslem faith....At the same time, conversion of the neophytes of the Ruling Institution seems not ordinarily to have been forcible.(3)

p.67

The Ottomans were too wise to believe that the best results could be accomplished by such means. Their policy was rather to throw every difficulty in the way of remaining Christian, and to offer every inducement to make the Moslem faith and system seem attractive. To this end their educational scheme helped greatly(1)...But the kullar [devshirme slaves] seem not to have been urged to change their faith; on the contrary, an attitude of apparent indifference was sometimes taken with them(3)... Prejudices of childhood would in time be overcome...and the value of the Mohammedan religion would make it appear to be the only worthy system. It is not surprising that the scheme seemed to Christians one of diabolical ingenuity.

*[The same process can be seen in modern societies. Only in very recent years, have the barriers toward certain religions and races [toward advancement] been destroyed [and according to some not yet destroyed], even in America.]*

#### p. 68 SINCERITY OF CONVERSION

The Janissaries...belonged to a sect which was so liberal, as to be accused of rank heresy, and even, it is said, to have been denied the name of true believers(2). Many of the renegades were persons who held no sort of religion(3)... Nor were the members of the system always submissive to the stricter rules of Mohammedan ethics. The Janissaries, for example, forced Bayezid II to reopen the wine shops of the capital, which in the religious fervor of his later years he had ordered closed...The probability is that large numbers of sultan's slaves were merely nominal Mohammedans in religious belief, though they necessarily followed the larger part of the Moslem scheme of life.

#### p. 71 THE EDUCATIONAL SCHEME

Plato would have been delighted with the training of the sultan's great family, though his nature would have revolted from its lowliness of birth. He would have approved of the life-long education, the equally careful training of body and mind, the separation of soldiers and rulers (although it was not even complete), the relative freedom from family ties, the system's rigid control of the individual, and above all, of the government of the wise.

p. 114

No disgrace was attached to the condition of being the sultan's slave; on the contrary the title of kul was felt to be an honor. Boys longed to bear it...

This honor shown the kullar rested, however, on no more servile attachment to the sultan and on no mere fear of an Oriental despot. The sultan's slaves from the lowest to the highest were set off from his subjects by a distinct set of privileges which in Western minds were associated only with nobility. Besides a general protection over them all by means of careful registration and watchful organization, the sultan bestowed upon all his kullar the personal rights of immunity from taxation, and responsibility to none but their own officials and courts

and to him. At the same time he freed them all from anxiety about the necessities of life, and enabled most of them to enjoy its luxuries, by regular pay from his treasury, or in the case of some high officials, by revenues from ample estates.

p. 115

Higher officials were expected to support armed households large in proportion to their revenue. After the model of the sultan's household, every kul according to his means built up a military establishment which followed him and his master to war.

[This was the beginning of the gradual loss of central power and the rise of the ayans and derebeys i.e. warlords which plagued the Empire in the 1700s.]

Immunity from taxation grew out of the slave status. There could be no advantage to the sultan in exacting taxes from persons whom he supported and who were supposed to devote all their energies to his service and use all their income for him.... Suleiman's grand vizier Rustem, following a long disused precedent of the time of Bayezid I--a reign which had in various ways foreshadowed later evils--established a tax upon the greater offices of the empire; but since the sultan did not receive the whole of such charges, the custom amounted to the sale of offices. Not only was such practice out of harmony with the theory of the Ruling Institution, but it proved very injurious in operation, and was rightly accounted one of the causes of the decline of the empire. The sultan took pay at the granting of the office, and so presently did every official from the men under him; until in time the practice became so systematized that a regular tariff was arranged and brought into use on the occasion of every appointment. Those who thus were put at great expense on coming into office felt the necessity of recouping for themselves by whatever means lay in their power. Hence arose not merely oppression of the sultan's subjects both Christian and Moslem, but also partial recovery of losses at the expense of the sultan's himself...It may be true that in the West, as Montesquieu said, the honor of a monarchy was not inconsistent with the sale of office; but in the Ottoman Empire it opened the door to fatal corruption.

*[It's common for governments to lease/sell land to private concerns to exploit i.e. forests, mines. However as the west developed, the government was brought under strict control with clear rules and regulations. The modernizing western systems left commerce and industry alone and tightened the reins on government. The excesses of unbridled private enterprise (laissez faire) gave rise to reverse ideas ie. Marx. In America it precipitated the anti-monopoly laws, so that the liberality in commerce to started to end. The Ottomans seem to have done the reverse. They treated even government offices as natural resources to be operated as private enterprises (restricted to the Ruling Classes, of course). Since the high office holders were fief-holders (i.e. their lands were treated as tax-farms), the office became (financially) a private enterprise bought from the government and operated for profit. It gave rise to corruption and decentralization at a time when European governments were strengthening the central governments' authorities. In this light, the communist system was an extreme in the other direction, which suppressed all private endeavor and made the government enter into even more private areas.]*

p. 118

Some writers of the early sixteenth century said that, whereas Osman had been aided in winning his dominions by two Greek renegades, Michael of the Pointed Beard, and Malco, and by Aurami or Eurcasi, a Turk, he had promised that he would "never put hand in their blood or fail to give them a magistracy." The promise had been kept, and in 1537 one of the Michaloglu was a Sanjak in Bosnia and one of the Malcosoglu was Sanjak in Greece. The

other family was then extinct. It is said that these were considered to be of royal blood and that in case of failure in the line of Osman the succession to the throne would fall to them.

Apart from these exceptions, the principle of heredity in office had been excluded from the Ottoman system by the time of Suleiman. The Ottomans, by the old Turkish rule probably derived from the Chinese, knew no nobility apart from the office and public service. An exception was introduced by Islam in the case of Seids, or Emirs, descendants of the Prophet; but this modification the Ottomans did not wholly respect. Accordingly, Ottoman nobility became official, personal and without heredity quality. It was, in fact, the reverse of hereditary, since the nobility in the father was an actual hindrance to the son and all his descendants.

p. 144

"And to tell the truth" writes Spandugino, "in that country they are more eager after money than devils after their souls. And one cannot accomplish anything with the princes or lords except by the power of money..."

That eagerness for wealth with which Spandugino reproached the Turks became only worse under the Magnificent sultan's example.

*[The system introduced to stop the negative effects of hereditary nobility, instead produced people who only lived for their own lifetimes and for money.]*

p. 149 [more on decentralization]

...the legislation of the sultans and of Suleiman himself was largely directed to the regulation of the institution itself, most laws of wider and deeper import being included in the almost unchangeable Sacred Law....All who followed the sultan to war without belonging to his great household provided for their own support. Even the officers of local government, though appointed from his kullar, were supported by the assignment of lands which they administered themselves by means of the Ruling Institution.

p. 151

The Sacred Law recognized no power of legislation in the head of state, since God through Mohammed had legislated once and for all; but it entrusted to him the functions of administration and justice, to be exercised to the fullest possible extent, subject always to the prescriptions of the Law.

p. 152

So far as legislation was possible under the Ottoman system, the sole power to issue rested with the sultan. The law which demanded obedience within the Ottoman Empire was fourfold; the Sheri [Sharia], or Sacred Law of Islam; the Kanuns, or written decrees of the sultans; the Adet, or established custom; and the Urf, or sovereign will of the reigning sultan. The Sheri was above the sultan and unchangeable by him; the Kanuns and the Adets were subordinate to the Urf; the Urf when expressed and written became Kanun and annulled all contradictory Kanuns and Adet.

*[Today we have 'higher moral authority', which was the Sharia in the Ottoman Empire; the Kanuns were more like amendments, of course only by the Sultan in theory; but in reality, probably via much consultation with his ministers or by the ministers themselves The idea of the Common Law and the rule of 'stare precedencia' (following precedence) was embedded in*

*Adets; and finally, since it was a monarchy the Urf was the will of the sultan, more like presidential directive which has to be obeyed; which is practiced even today in all authoritarian governments with rubber-stamp parliaments. In modern societies, presidents have only negative powers i.e. they can only veto, which can be overridden. In the Ottoman case, the sultan (or his ministers) could legislate, which could have been ruled 'unconstitutional' by the Ulema, which functioned as the Supreme Court.]*

p. 153

Early in the process of formulation, the Sacred Law was separated logically into two great divisions--matters of faith and morals, and practical regulations, groups corresponding more or less to the Western conceptions of theology and law. The Moslems never made an actual separation of these two divisions of the Sacred Law; both in education and in practice they regarded them as parts of one great unity of advice, precept, and command, divinely sanctioned and binding upon all true believers. The practical regulations, or the Law proper, went by the Arabic name of fikh; it included both jurisprudence and positive law...

p. 154

"...Snouck Hurgronje was really the first who set forth with great acuteness and sure judgment the historical truth, namely that what we call Mohammedan law is nothing but an 'ideal law, a theoretical system; in a word, a learned school-law, which reflects the thoughts of pious theologians about the arrangement of Islamic society, whose sphere of influence was willingly extended by pious rulers--as far as possible--but which as a whole could hardly ever have been the real practical standard of public life. He finds there rather a 'doctrine of duties' of quite an ideal and theological character, traced out by generations of religious scholars, who wished to rule life by the scale of an age which in their idea was the golden period, and whose traditions they wished to maintain, propagate and develop...We find even in the oldest literature of Islam many complaints about the negligence of the religious law by Ulema in their struggle against the practical judges, that is to say against the executors of actual law."

p. 156

The Sacred Law reached out far beyond the conception of law in the West. It was originally supposed to be sufficient for the entire government of the Islamic state ... as well as for the minute regulation of the social, ethical, and religious life of all its members. From two circumstances, however, it rapidly became inadequate as a political institution; first from the expansion of the original simple Islamic society into a great world-power, with interests and relationships far more complex than had been dreamed of by the founders; and second, from the fact that the Law, believed to be of divine origin, was proclaimed unchangeable by its own provisions, and hence could not, except with extreme difficulty, be adapted to new responsibilities and times... It became necessary, therefore, for princes to supplement the Sacred Law by decrees of their own, a course in which they could not transgress the positive commands of the Sacred Law... In the case of undoubted transgression of the Sacred Law, the Moslem society, led by the Ulema, was considered absolved from allegiance to the sovereign and justified in exercising the right of revolution.

*[This is what gave the Ulema via the Janissaries so much power over the sultan. From time to time, the sultans were overthrown by their own Janissaries for all sorts of reasons. It also made it extremely difficult for the reforming sultan to make changes without first being able to convince the Ulema that the change was necessary and 'lawful'. If they were obstinate and conservative, the sultans' attempts (or even their lives) were gone.. Zippo!]*

The Sheri was thus a written constitution for the Ottoman Empire, not subject to amendment, but capable of some slight modification by judicial and juristic decision and interpretation. The sultan had no power over it except as guardian, interpreter and executor. The popular consent which allowed him to remain in authority did not recognize in him any right to amend or abolish any part of the Sacred Law.

p. 161

Not much need to be said about Adet or Urf. Adet, or custom, corresponds primarily to the body of unwritten regulations under which the Turks of the steppe lived. As in most semi-civilized societies, it was at once far wider in scope, more rigid and more binding, as enforced by popular opinion, than written laws in more advanced societies usually are...It has been remarked of the caliphate that in no other state have little causes near the beginning produced such great effects, because of the tendency to follow precedent minutely. [It reminds me of the Butterfly effect.]

... Adet supplemented the Sacred Law and the Kanuns in matters which they did not cover. It differed from district to district as it does in the west. Urf was the sovereign will of the reigning monarch...It was by the expression of Urf that Kanuns were issued or annulled and that Adet was replaced by Kanun.... Against the Sheri, however, it had no force; any attempt to exercise it thus was an invitation to disaster.

*[Just like today. Immorality (disobeying the Higher Law) is an invitation to disaster for an elected official or head of state.]*

p. 199 THE MOSLEM INSTITUTION OF THE OTTOMAN EMPIRE

...As a mere church it claimed far less place and influence than they [Christian ecclesiastical organizations] do, but in other respects it reached out far more widely... Islam recognized no organized priesthood, no aristocracy, and no monks; yet the Ottoman Moslem Institution possessed groups that were much like each of the three....

Accordingly the two institutions [Ruling Inst and Moslem inst]) were very differently constituted. Between them arose a rivalry of tendency and influence which was to become extremely harmful to the Ottoman state...

.. a large proportion of the land of the Ottoman Empire, perhaps one-third, was set aside as vakf, or religious endowment...Each tract of such land was by the original act of endowment assigned to a particular object..and an administrator and an inspector were appointed to take care of it... The vakfs as a whole supported all the official members of the Moslem Institution, except that the judges derived much of their income from fees and fines... All the Ulema, in connection with their support from semi-public funds, possessed the noble privilege of immunity from taxation. Since the rendering of justice was in their hands, they had their own justice. In addition, their property was not subject to confiscation; and since they were not kullar, it passed by inheritance to their relatives and never to the sultan. All these privileges gave the learned class in the Ottoman Empire the prestige of nobility, besides great financial advantage.

Like the Ruling Institution, the Moslem Institution contained and embodied an educational system which was of its essential structure. Through it...great majority of the members of the institution, including all who expected promotion, were required to pass; accordingly, they bore as a body the name of Ulema, or learned men... The mektebs taught Arabic reading and writing and the Koran; the medresehs have a course of ten studies resembling the Seven Arts of the WEst; the law schools taught the group of sciences connected with the Koran and Sheri

and including both law and theology...

A number of the Ulema who had finished the law course, and who at some previous time had chosen to become counsellors and jurists rather than to take up the severer and more active judicial career, constituted a distinct body, the muftis...

..the mufti of Constantinople became par excellence the MUfti. Mohammad II assigned to him also the title of Sheik-ul-Islam... The Mufti was definitely constituted by Suleiman the head of the Ulema; and as such outranked all officials of government.. Sixteenth century Westerners compared the Mufti with a "very great cardinal" but more often with the pope. The Mufti..could give responses only when his opinion was asked... He was frequently consulted by the sultan as to the conformity of proposed Kanuns with the Sacred Law. In his hands rested the extreme responsibility of pronouncing that a sultan had transgressed the Sacred Law and ought to be deposed... He exercised a function similar to what in the USA is the highest office of the Supreme Court--the power of defending the Constitution. In this capacity the Mufti often withstood the sultan.

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The power of the Mufti in the sixteenth century maybe illustrated by one or two instances...After he [Selim, the Grim (Yavuz)] had got rid of Mohammedan heresy in his dominions, he was impressed by the absence of unity occasioned by the presence of the Christian subjects. Accordingly he decided to order all these Christians to accept Islam on pain of death... But here the Mufti Jemali intervened decisively. He had given a fetva authorizing the extermination of the heretics.. In this case, Selim, it is said, deceived him by a hypothetical question into giving a response which might be interpreted to authorize the forcible conversion of Christians. After the order was issued, however, Jemali awakened to the situation, put the Greek Patriarch in possession of a sufficient defence by showing him that under the Sacred Law provided that Christians who had accepted Mohammedan rule and agreed to pay kharaj and jizyeh (land tribute and poll-tax) were, aside from certain regulations, to be left unmolested in the exercise of their religion. This provision, the Patriarch, as instructed by the Mufti, claimed to be an irrevocable and eternal compact; therefore, he urged, since Selim's intention was contrary to it, his purpose was unlawful and must be abandoned. The argument prevailed, and the Christians were not disturbed as to their faith.

It may be remarked that Selim's idea was an excellent one from the point of view of statesmanship, and would in the end, have resulted in a great advantage to the Moslem Institution. As pointed out in the first chapter, the Christian churches in the Ottoman Empire constituted a group of organizations that were parallel and rival to the Moslem Institution; hence their removal would have left it a free field. Whether its unopposed action would, in the long run, have been advantage to the empire and to the world is a matter of speculation which would be out of place here; but as a state the Ottoman Empire would have been notably unified by the clearing away of these institutions. They were old, strong, and of a tenacious vitality; in them centered the hopes and aspirations of the subject Christians; while they persisted, complete amalgamation of the population was impossible; they were to keep alive a sentiment of nationality and separatism that three centuries later was to break off great sections of the empire. It seems clear that had Selim been able to carry out his purpose, the history of the Levant since his time would have been very different from what it has been. But the Mufti, as guardian of the Sacred Law, was right. The position of the Christian subjects rested on a firm constitutional foundation. The Prophet Mohammed himself, nine centuries before Selim, had made the religious and social unity of the Ottoman Empire

forever impossible.

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In reality, the muftis occupied the most influential position in the Moslem Institution and perhaps the Ottoman state...by popular consent the muftis constituted the conservative, regulative force in the Ottoman state. They were to contribute very largely to the empire's durability, which despite frightful shocks, disasters, and losses, was to continue far beyond the expectation of the world.

The muftis did their work only too well. The idea of the changelessness of the Sacred Law was essentially hostile to progress...When the Ottoman power began to rise, scholasticism was at its height..From this blighting theological and philosophical bondage, which tended to extend its deadening sway over all the activities of the human spirit, Christendom was delivered by the Renaissance and the Reformation. The Ottoman mind, on the contrary, continued to be held under it till the most recent years. That it remained so long in bondage, with scarcely a struggle to escape, was due very largely to the authority of the Ulema. They who accomplished much toward building the Ottoman state into a solid structure, and toward maintaining it against foes without and within, also held it nearly stationary while the rest of the world moved on.

p. 215 THE JUDICIAL SYSTEM

The judges who belonged to the corps of the Ulema had jurisdictions that were based on territory, and that covered the whole empire to an even greater extent than did the administration of the government. The Crimea and North Africa, though under vassal governments, formed part of the Ottoman judicial system. The tribunals of the judges seem to have been competent for all kinds of cases, whether civil or criminal and whether covered by the Sheri, the Kanuns, Adet or none of these. But, as we have seen, they were not competent to try all persons. The kullar, the Seids, and the members of the foreign colonies had their separate systems of justice; even the subject Christians, in matters between themselves, had their own ecclesiastical tribunals to which they regularly resorted....

*[More on the ranks and gradings such as Kazi-asker, mufettish, molla, danishmend, naib, etc.]*

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What was the character of Ottoman justice?..A few years after Suleiman's death a Western writer expressed the opinion that the only incorruptible courts were those of the Grand Vizier and the Divan....Another charged that Christian subjects had unfair treatment before the courts... Ottoman courts in Suleiman's time were reasonably just. The judges were well-paid, highly-honored, and carefully inspected by honest men...

Some WEstern observers were as strongly impressed with the superiority of Ottoman justice over that in their own lands... "To understand at length their diligence in justice, it would be necessary to write more than I have done; and further, since there is nothing here [that is in France] so near immortality as the processes and extortions which men do, it gives me shame to recite so great diligence among a people proclaimed wicked; this it is, without any doubt, which makes them rule, conquer and keep.."

p. 227 COMPARISON OF THE TWO GREAT INSTITUTIONS

..If an attempt be made, in a very general way, to distinguish the main lines of influence

which led up to the two institutions, it may be said that the Ruling Institution had its nucleus of ideas from the Turks of the steppe lands. Influenced by old Persian neighbors and Chinese rulers, the original group of ideas was brought into the Moslem Empire and Asia Minor by the predecessors of the Seljuk Turks and by the Seljuks themselves. Coming into contact in Asia Minor with the ideas of the Byzantine Empire, and to some extent with those of the crusaders from the West, the system took on a large number of new features; and the Ottomans continued the process in Asia Minor and Southeastern Europe until the time of Suleiman. The Moslem Institution began with the ideas of Arabs as combined by Mohammed with Jewish, Middle Persian and Christian influences. Political notions were rapidly incorporated from those prevailing in Byzantine Syria and Egypt, and perhaps to a greater extent from those in the Sassanian Persian Empire. A compact system of ideas began early to be developed, and in the twelfth and thirteenth centuries it reached final scholastic shape. Together with its institutional embodiments, it began to pass to the Ottomans in their earliest days; and as the nation grew, it grew into the Moslem Institution of the Ottoman Empire, fresh power being given to it by Selim's conquest of the old Moslem lands, and especially by his acquisition of the over-lordship of the Holy Cities.

..Belief, and not blood, became the test of membership. This common hospitality of its two great institutions to all who might wish to join them laid firmly the foundations of the Ottoman nation, and made possible the greatness and the permanence of its dominion.

Both Ottoman institutions were self-perpetuating through education. Each had a great educational system which was adapted to its special character, and which was life-long in extent...

Both institutions rose to an apex, through the Divan and the grand vizier, in the sultan, who was the head and center of each. Yet the ideas by which the two institutions were joined to their head were in striking contrast. The sultan was the master and owner of the Ruling Institution; he was the divinely- appointed chief of the Moslem Institution [caliph ?]. The members of the former obeyed him as slaves; the members of the latter obeyed him as free Moslems commanded by the Sacred Law to render allegiance to the chief interpreter and defender of that law. The former knew no power greater than the sultan's; the latter relied upon the Sacred Law as above the sultan. The Ruling Institution was extended downward in each of its parts from the sultan's authority, and in organization and membership depended for existence upon his will. The Moslem Institution rose upward from the people, and was attached almost artificially to the sultan's authority.

p. 230 DIFFERENCES

..Christian slaves, newly converted to Mohammedanism, were not as a body so closely attached to the Sacred Law as were the Moslem freemen. Their loyalty being rather to one man...they felt a servile devotion which was very different from the reasoned allegiance of those who had always been free. A Mufti, fortified by the Sacred Law, would firmly oppose the will of the sovereign in a case where the grand vizier would scarcely dare venture a mildly contrary suggestion. ..

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To trace the ups and downs of the influence of the two influences from the beginnings of Ottoman history would be an interesting problem... With an active conquering sultan...the Ruling Inst. would gain upon its rival; with a pious or mild sultan.. the Moslem Inst. would increase in importance...

The reasons for the more rapid growth of Moslem Influence lay chiefly in the fact that influence was cumulative. As to its financial basis, the Moslem Institution, like the Christian church in the West, gained lands and wealth continually, and never lost any; for sultans took great pride, and high officials vied with each other, in founding mosques, schools, colleges, and other charitable and semi-public institutions supported by the vakfs(1)...In this field, indeed, its power acted constantly upon its rival. Old Hojas taught pages in the palace, advised the sultan's mother, and trained the young princes and the sons of high officials..

*Footnote: 1. Spandugino, 207:"And the Turkish lords generally, as well great as small, study only to build churches and hospitals and to enrich and make hostelries for lodging travelers, to improve the roads, to build bridges, to construct baths, and several other charitable works which they do in such a way that I suppose the Turkish lords are beyond comparison greater alms-givers than our Christian lords; and in proportion as they have good zeal, they use great hospitality. They voluntarily lodge Christian, Turk and Jew alike." See also Morosini, 270.*

At the same time, the Moslem Institution could never destroy its rival. Theoretically it had no need for such a counterpart...The Sacred Law developed with no mention of secular government, and with no hint of any deficiency in its own provisions that would make it inadequate to guide a nation by its own strength; but within thirty years after Mohammed's death Muavia had set up secular government at Damascus, and since then every Moslem state had had one. Many a Moslem state, also, had had a ruler who was not of lawful blood; for the Sacred Law affirmed that the Imam, or divinely appointed ruler, must be of the tribe of Koreish.(2) According to that unenforced provision, Suleiman himself had no right to the throne...

Bound together closely in an alliance which neither enjoyed, but which was necessary for the preservation of both, the Ruling Institution and the Moslem Institution constituted the twofold inner framework of the Ottoman Empire, to which it owed all its might and energy, its grandeur and repute, its continuity and durability.

*[The conservative vs liberal (i.e. sameness vs change) which today exists in every modern democratic society apparently existed in the Ottoman Empire. The forces of change were slightly at a disadvantage and over time the disadvantage accumulated so that the Ottomans were left behind. Progress is change but every change is not progress. Today in some quarters in the west, every change seems to be interpreted as progress, as used to we are of rapid technological change. The social changes seem to be lagging behind, so an unbalanced system is being created. The Ottomans Ruling Classes were hampered by conservative system which tended to consider change as harmful. This view is not shared by all elements of Turkish society, although it is the dominant view that is(was) taught in schools in the Turkish Republic.]*

APPENDIX--Written in 1534, supposedly by Benedetto Ramberti.

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..There is the mosque of Sultan Mohammed, which has an Imaret attached to it that is like a hostel; in which they lodge any one, of any nation or law, who may wish to enter, and they give him food for three days,--honey, rice, meat, bread, and water, and a room in which to sleep. They say that from day to day there are more than a thousand guests from various nations. Near this they have baths and some fountains, most beautiful and delightful to behold.