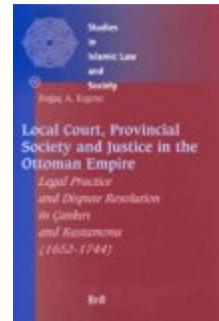


Bogac A. Ergene. *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Cankiri and Kastamonu (1652-1744)*. Leiden: Brill, 2003. x + 236 pp. \$117.00 (cloth), ISBN 978-90-04-12609-1.

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Maintenance of Social Hierarchy at the Expense of Justice for the Individual

The Middle East Studies Association awarded its 2002 Malcolm Kerr Dissertation Prize to the dissertation on which this book is based. Bogac Ergene uses Ottoman court records to “challenge the common assumptions in the literature that the Ottoman provincial courts and the practice of law in the seventeenth- and eighteenth-century Anatolia provided secure avenues for the weak to stand against the abuse that they occasionally encountered” (p. 6). This task is achieved through a detailed study of twenty-five volumes of court records (*sicils*) from the sub-provinces of Cankiri and Kastamonu.

After a brief introductory chapter, where the author states that “it is not my intention to disclose the conclusions that will be furnished in subsequent chapters” (p. 6), and a second introductory chapter, where the general characteristics of the two sub-provinces and the personnel of the courts are discussed, the substantive part of the book begins. Unfortunately, the failure to highlight the significance of the study’s findings at the outset makes it difficult for the reader to follow Ergene’s arguments as he develops them in the subsequent chapters.

The next three chapters provide a statistical picture of the cases included in the court documents. In chapter 3, Ergene classifies the cases based on whether they represent the administrative or the judicial functions of the courts. The picture that emerges supports the author’s contention that Ottoman courts played different roles depending on local conditions. In Cankiri most of the court’s time was occupied with administrative mat-

ters whereas in Kastamonu judicial services were dominant (pp. 42-43). Chapters 4 and 5 look at the social background of the litigants and the cost of litigation, respectively. The analysis of the court documents shows that the elite were more likely to go to court. The reluctance of commoners to go to court appears to have been in part due to the high cost of litigation, which often was more than what was officially required in the administrative manuals.

A further contributing factor might have been the perceived bias of the courts in favor of the elite. Ergene’s findings suggest that when members of elite classes found themselves in court against commoners they had good reason to expect a favorable outcome (p. 75). Ergene attributes this outcome to the influence of the elite over the court (p. 71). There is, however, little discussion as to why the courts were susceptible to the influence of the elite. Nor is there a discussion of how court decisions were enforced. Judges, after all, are themselves likely to be members of the elite with interest in preserving the existing social order. Furthermore, courts are often dependent on other institutions and individuals for the enforcement of their decisions. In other words, one can ask whether the perceived bias of the courts in favor of the elite is due to the common interest between the court personnel and elite litigants, the courts’ dependence on the elite for the enforcement of their decisions, or the elite’s ability to “corrupt” court proceedings?

Chapters 6, 8, and 9 shift the focus of the study from

general trends to in-depth studies of individual cases, and look at the strategies used by litigants and alternative mechanisms of dispute resolution. The evidence presented in these chapters suggests that, despite the findings of the previous chapters, the less powerful classes of the society were not completely powerless in disputes with the elite. Ergene convincingly demonstrates that the lower classes were, at times, able to use a variety of strategies such as obtaining legal opinions (*fetvas*) from religious authorities, acting as a community, or seeking alternative venues to settle their disputes with members of the elite. Unfortunately, in these as in the book in general, Ergene does not push his analysis of the data far enough and the reader is left wondering what generalizations can be made about the circumstances under which a particular strategy might have been used or why it might have been effective. Although the dust jacket advertises the book as a study of the “functions of Islamic courts,” Ergene is more modest, at times perhaps too modest, and often limits his conclusions to the two courts that have provided the bulk of the material for the study.

What is also missing from this book is any discussion of what justice might have meant in the Ottoman context. As Ergene shows, Ottoman courts defended the interest of the upper classes against individual commoners but were willing to side with the latter when they acted as a group (p. 72). This suggests that in the Ottoman context justice required the maintenance of the social hierarchy at the expense of justice for the individual, as has been suggested by the advocates of the “circle of justice” theory. The present study, however, does not concern itself with what justice might have meant in the context of seventeenth- and eighteenth-century Ottoman society.

Chapter 7, with the title “Intermission: *Sicil* as Text,” seemingly is misplaced and should have come much earlier to both discuss the strengths and weaknesses of *sicils* as historical sources and the context of the present study. Also misplaced, as far as this reviewer is concerned, is chapter 10 which, under the rubric of “In Place of Conclusion: Models and Taxonomies,” shifts the discussion to encourage “more studies that pay attention to the historical contexts in Ottoman legal history” while paying attention to models and taxonomies (p. 207). Ergene’s brief introduction to the “court model” and the “bargain model” of dispute resolution would have been more beneficial if it had appeared earlier in the text and would have allowed the reader to evaluate the evidence presented more easily. The book ends with a short epilogue summarizing the findings of the study and an appendix that asks “where did the court clients come from and why” (p.

213)?

As someone who is not an Ottomanist, but has an interest in the operation of courts and the administration of justice, I feel that this book could have benefited from a more extensive review of the literature. At several points in the book the author claims that his findings challenge the standard view of Ottoman courts presented in the literature. However, there is no discussion of what this view is or what functions the courts were formally expected to perform in the Ottoman administrative system. The author claims that there is a consensus among scholars on the functions of the Islamic and Ottoman courts (p. 32), but he fails to explain the role assigned to the courts in scholarly writings. More importantly, the arguments of the book would have been more persuasive if there was a discussion of how the Ottomans themselves perceived the courts. There is plenty of evidence in this book to suggest that the actual operation of the courts diverged significantly from what is presented in the official administrative manuals, but without a discussion of what was formally expected of the courts it is difficult to determine how serious these divergences were and what place the courts occupied in the Ottoman political and administrative systems.

I also should say a few words about the sources and some stylistic concerns. The arguments of the book are almost exclusively based on the court documents and observations of the Westerners, mainly those of Hans Ulrich Krafft, a German merchant who had spent three years in an Ottoman prison in Tripoli. As outsiders, Western visitors often noticed practices that the local inhabitants took for granted. By the same token, however, they might have interpreted events in ways different from the local inhabitants. It would have been useful to also provide some evidence from local observers.

My other concern is with the way Ottoman Turkish words such as *kerime* and *emine* are used throughout the text. These, of course, can be proper names but they are also adjectives used to refer to women in place of their proper names. Unfortunately, the way they are used in the text it is not clear when they are proper names and when they are a general adjective (examples on pp. 153, 162). Finally, given the large number of Ottoman legal terms used in this book, the inclusion of a glossary would have been welcome. The points raised above, however, should not discourage those interested in the operation of Ottoman courts from consulting this book. Bogac Ergene should be congratulated for gathering and analyzing a wealth of valuable information.

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