



## Intercommunal Relations in Jerusalem During Egyptian Rule (1834-1841)

### Part 2

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Ibrahim Pasha and his army, encampment at Jaffa. Painting by David Roberts.

*In my book Sacred Law in the Holy City, published in 2004, I presented a detailed analysis of the relationships of Jerusalem's traditional Muslim elite with the Khedival regime of Muhammad 'Ali Pasha, the Albanian governor of Egypt who rebelled against the Ottoman Sultan and invaded present-day Israel, Jordan, Palestine, Lebanon, and Syria in 1831. Here, in the second part of "Intercommunal Relations in Egyptian Jerusalem" for the Jerusalem Quarterly, I present four legal cases relating to land purchases by non-Muslims during the period 1834-1841. In order to set these cases in context, I trace the shifting political identities of the subjects of the Ottoman Empire at a time of rapid socioeconomic change in the city of Jerusalem.*

## Jews and Christians Living Under Islam

The earliest European travellers in the Ottoman Empire, visiting provinces which were primarily Christian, assumed that the term *ri'aya* referred only to the Christian and Jewish minorities in the Empire, and not to all taxpayers, including the Muslims, who paid the *kharaj*, or land tax, to work the land. Europeans saw Muslim social prejudice against Christians and Jews as political oppression, and did not understand that under Ottoman law, they were all subjects of the Empire—the taxpaying “flock” whom the Sultan was to assure their “repose and tranquillity”.

Under Ottoman law, however, Christians and Jews were organized into their own autonomous communities, whose affairs were governed by their own religious leaders and courts, as were the Muslims. The synagogue, church, or mosque in each locale was not only a place of worship, but it was also the community centre. Tax records were kept by identifying the individuals attending their community's house of worship, and were collected from the entire community. The dynamics of the Khedival period (1831-1840) resulted in the reorganization of the socioeconomic framework of the empire under the Tanzimat.

Before we can begin to look at what was going on in Jerusalem in the first half of the nineteenth century, we need to understand the legal, political, social, and economic conditions of Jewish and Christian subjects of the Ottoman Empire. Many readers will recognize the term “dhimmitude,” which was coined by historian Bat Ye'or who characterized the situation of Jews and Christians living in Arab and Islamic countries in the nineteenth and twentieth centuries as extremely difficult.<sup>1</sup> This picture of the struggles of these minorities under Islamic rule is difficult to tally with the prosperity that these same minorities had enjoyed in earlier times and in different places in Islamic history, remembered as golden ages especially by Ashkenazi Jewish historians who found that Islamic rule compares very favourably to the difficult experiences of Jews in Christendom.

Today, one rarely reads of the flourishing Jewish communities in Baghdad or Granada under Islam. It is forgotten that Jewish tribesmen rode with the army of the second caliph, 'Umar, to throw their hated enemies, the Byzantines out of the Holy City and to dwell there again for the first time since the destruction of the Second Temple; or that Salah al-Din al-Ayyubi, after defeating the Crusaders in Jerusalem in 1099, allowed Jews to return to live there, or, indeed, that a Jew could serve as the commanding general of a Muslim army, as did Samuel Ha-Levi Ibn Nagrila Ha-Nagid, Vizier of Granada. Regrettably it is no longer widely known that in 1453, after conquering Constantinople, the Ottoman Sultan Mehmet the Conquerer (al-Fatih, r.1451-81) invited Sephardic Jews and Muslims to settle in his domains, saying, “who among you of all my people that is with me, may his God be with him, let him ascend to Constantinople the site of my royal throne. Let him dwell in the best of the land,

each beneath his vine and beneath his fig tree, with silver and with gold, with wealth and with cattle. Let him dwell in the land, trade in it and take possession of it.” Even more famously, Bayezid II (1481-1512) invited those fleeing the Inquisition to settle in Ottoman Syria and Egypt, conquered in 1517. Tradition has it that he asked of Ferdinand, King of Spain, who had expelled the Jews and Muslims from Andalusia, “Can you call such a king wise and intelligent? He is impoverishing his country and enriching my kingdom.”<sup>2</sup> These invitations led to a Jewish revival in Safed in the Galilee, and in Jerusalem, where the traumatized refugees from Spain began to rebuild their shattered lives.<sup>3</sup>

Nevertheless, rather than engaging in the question of whether Islamic rule was generally better or worse than Christian rule for the Jews in the pre-Enlightenment period. Let us understand how the Ottoman government categorized Jews and Christians in their realms. The term ‘*dhimmi*’ – despite its well-known pejorative sense of derogation – is, for our purposes, to be understood in a different way. The actual political and legal sense of the word is very important in Islamic law. The word ‘*dhimmi*’ is used to describe a Christian or Jew who, as a member of the ‘People of the Book’ (*Ahl al-Kitab*), was ‘joined’ or ‘attached’ to the Muslim community by accepting its political ‘protection’ and sovereignty. A *dhimmi*, as a Jew or Christian subject, by virtue of the fact that he was not a member of the *umma*, had no obligation to serve in the military. The payment of the *jizya* – the capitation tax – assured the *dhimmi* of his right to live in the Ottoman Empire, although clearly not as a political, social, or religious equal to the Muslims of the empire. A *dhimmi* nevertheless was a member of the *ri’aya* – the taxpaying ‘flock’ – who, as a subject of the caliph of the Ottoman Empire, was obligated to pay taxes and comply with the laws of the empire just as did its other subjects, Muslim, Jewish, or Christian.

By 1813, Europeans commonly accepted the notion of ‘*rayah*’ as defined by the Oxford English Dictionary: “a non-Muhammadan subject of the sultan of Turkey, subject to the payment of the poll tax.”<sup>4</sup> However, in the popular but inaccurate work *The Ottoman Centuries: The Rise and Fall of the Turkish Empire* by Lord Kinross, the term ‘*rayas*’ refers only to religious minorities.<sup>5</sup> Even the glossary of such an important reference for Middle Eastern Studies as Jere Bacharach’s *A Near East Studies Handbook* erroneously states that “...In the Ottoman Empire it initially meant all non-Osmanli, but eventually came to refer only to non-Muslim taxpayers.”<sup>6</sup>

The documents in the archives of the Islamic Court of Jerusalem disprove this definition, and shows that it was in the key years between 1834 and 1838 the meanings of the terms ‘*ri’aya*’ had shifted. The dynamics of the Khedival period resulted in the reorganization of the socioeconomic framework of the empire under the Tanzimat, when the concepts of ‘*askeri*’ (the military classes) and *ri’aya* (the tax-paying “flock”) were replaced with a new formulation of the ‘*millet*.’ That term’s usage had evolved under the Ottomans from the sense of a ‘religious community,’ applicable “ecclesiastically” to Muslims and *dhimmis*, to the sense of “an empire-wide

corporation... i.e. as a religious community holding the same status throughout the empire and as such deserving the same protection everywhere.”<sup>7</sup>

This status was in distinct contrast to a resident Jew or Christian from outside of the Ottoman Empire who became a ‘*musta’min*’ – a foreigner who was promised protection by Sultanic decree, i.e., a resident alien. All of the Ashkenazi Jews in Jerusalem, along with all European Christians, were classified as *musta’minin* (Ar., m. pl.) in this period. Therefore, a *dhimmi* was at the time identified in Ottoman law as a subject of the Ottoman Empire, in distinction to foreign born Jews and Christians.<sup>8</sup> Indeed, even *musta’mins*, or foreigners (*harbis* – those from *Dar al-Harb*, the Realm of War, as opposed to *Dar al-Salam*, the Realm of Islam, or Peace) who under the capitulations were permitted certain limited commercial privileges, came to constitute ‘*millets*’ in which they joined non-Muslim subjects of the Ottoman Empire.

As the terms *ri’aya* and ‘*askeri*’ were dropped as socioeconomic categories during the Tanzimat period, the term *millet* came to replace them, distinguishing the various groups not on the basis of their individual economic and social functions and obligations in the empire, but on the basis of religious affiliation, which ultimately evolved into a term connoting political autonomy. This undoubtedly resulted in large part from the case of Serbs, who had “forfeited the protection which had been granted to them and lost their *dhimmi* status” and had become known as a “sovereign nation in the enemy’s territory.”<sup>9</sup>

Although the Ottoman system for governing religious minorities began evolving as early as the fifteenth century, it is clear that important developments regarding their organization in relationship to the state began in the 1830s, shortly before the Tanzimat reforms of 1839. This important process diluted religious distinctions within the empire as the Ottomans tried to respond to liberal European demands for equality and citizenship for non-Muslims. The significance of the effort to change the relationship of *dhimmi* to Muslim by making all religions equal was undeniable. However, there were unintended consequences for Ottoman society. On a social level these reforms strengthened communal identities as European powers began to assert their right to “protect” non-Muslims in the Empire. Some minorities began to seek this ‘protection’ from the consular representatives of European states who used these relationships to deepen their footholds in the empire. This was particularly true of the Jewish community, which sought protection from Great Britain, and the Greek Orthodox community, which found it in Russia. This development was mirrored within the elite Muslim community, which sought to protect its privileges within a rapidly changing social and political environment.

Thus, while the Ottoman state attempted to counteract the appeal of ethnic and cultural nationalism in the Balkans by creating a common identity based on the notion of an Ottoman citizen, in the eyes of these communities themselves, its policy of

recognizing *millets* as autonomous overshadowed the new political rights accorded them as individual citizens recognized by the Ottoman Empire during the Tanzimat period. While the Porte may have been able to conceive of an Ottoman identity, the minority communities themselves were either unwilling or unable to redefine their corporate or individual identities vis-à-vis the state.

Although recent losses in the Balkans may have been the foremost concern in the Porte, the situation in Syria was also deteriorating. European interests in the welfare of the non-Muslims living in Jerusalem began to affect the city's political climate. In 1835, an Ottoman order regularizing "the position of the Jewish community... extended, for the first time, official recognition to a Haham Basi [sic]" and used the term '*millet*' to describe the Jewish community.<sup>10</sup> As the privileges of subject and non-subject began to merge, it became necessary that the terminology change. The *dhimmis* began merging politically with the *musta'mins*, or "resident aliens" promised security by the Ottoman Porte, changing the nature of the *millet*. Rather than creating an Ottomanism that would subsume the differences among Ottoman citizens, a different dynamic began to take place. As the non-Muslims differentiated themselves from the Muslim community (*ahl al-milla* vs. *ahl al-dhimma*) in religious terms, politics (and not socioeconomic classifications) began to separate the communities.<sup>11</sup>

Not knowing much about how the entire empire was administered, the Europeans accused the Ottoman government as oppressing Jews and Christians *de jure*. They did not accept the idea that the Porte considered the ensuing lawlessness in its provinces unjust, or simply that it was unable to establish order. Rather, they criticized the Porte as corrupt and intentionally oppressive. This was especially the case in Jerusalem, where Europeans were concerned particularly with these groups' welfare, for both humanitarian and political reasons. They showed little interest in how the Muslim community, or how the empire itself was governed. Instead, they championed the cause of the subjugated and impoverished Jewish minority, which increasingly found itself opposed to the Muslim community because of the increased international interest in the city. Thus, consular 'protection'—of Ottoman subjects changed the entire political position of the Jews of Jerusalem.<sup>12</sup> This is the broad political and socioeconomic context which British and American missionaries encountered in Jerusalem in the 1830s.

We can now appreciate better the following four cases from the Islamic Court archives in Jerusalem involving the purchase of land by resident aliens.

### **The American Consul's Cemetery**

One of the earliest issues to arise during the Khedival period was over the right of *musta'minin* to purchase land in Jerusalem. On 12 May, 1836, the Chief Judge had forbidden the American consul, a certain John M. Clayton ("*Qilaydun*") of Delaware, from purchasing land near David's Tomb for a cemetery.<sup>13</sup> This refusal

was made in accordance with the *Shari'a*, according to the document. However, when some Franciscans sought permission to enter David's Tomb, the Dajani family that supervised the *waqf* submitted a petition to the Khedival government requesting instruction. Again, an order from the official in charge of government affairs in Cairo denied permission for any Christian to enter the tomb, even though the Franciscans had once had customary rights there.<sup>14</sup> The reasoning in Muhammad Sharif's order does not allude to any *shari'a* related reasons for the denial. It may have occurred due to the strategic importance of Mt. Zion in Khedival defense, since Ibrahim Pasha had used the facilities there as his military headquarters.

### **Nicolayson Buys a House**

On 8 August, 1839, a document was issued by the court permitting the *mutasallim* of Jerusalem to allow the well-known Danish-born missionary Nicolayson to buy a house.<sup>15</sup> This was done on the basis that formerly *musta'minin* were permitted to purchase this type of private property according to deeds issued in the *Shari'a* courts. Therefore, Nicolayson's request to buy the house in which he was living was sent to the Khedival government for consideration, and permission was granted for the sale. This permission was granted in the *Shari'a* court in accordance with the laws governing *musta'minin* in Jerusalem. Thus, between 1836 and 1839 the application of laws regarding the purchase of land by foreigners in Jerusalem changed. Within the body of Ottoman law, either the earlier or the fresh approach could be cited by the government to justify its decisions. The application of the law was therefore both flexible and unpredictable, a tool to sanction the current policy of the government.

### **Montefiore Meets the Khedive**

In 1839 Sir Moses Montefiore, the British Jewish philanthropist who toured the Holy Land seven times between 1827 and 1875, visited Safad, a town with a large number of Jews. Thinking about ways to improve their lives, he wrote in his diary, "I shall apply to Mohammad 'Ali for a grant of land for 50 years; some one or two hundred villages; giving him an increased rent of from ten to 20 percent, and paying the whole in money annually ..." on the condition that "the land and the villages to be free, during the whole term, from tax or rate either of Pasha or governor of the several districts; and liberty being accorded to dispose of the produce in any quarter of the globe." If he were to be successful, he intended on his return to England to, "form a company for the cultivation of the land and the encouragement of our brethren in Europe to return to Palestine."<sup>16</sup>

Montefiore clearly believed that Muhammad 'Ali had the power to dispose of the tax-farms of Syria. Muhammad 'Ali demonstrated once again his adept political sensibility. He controlled the territory, but by this time he knew that he could not hold onto it for much longer, and once again asserted Ottoman sovereignty and authority over such matters. He would be a facilitator, assisting another potential investor, but he was not responsible for the real estate in question. On 13 July, 1839, Montefiore

met with Muhammad ‘Ali in Alexandria to discuss the possibility of renting land in Palestine. The Pasha replied that “he had no land there”, but that “any contract” Sir Moses might make with the Muslims there would have “his approval” and “he would send it to Constantinople for confirmation.” Montefiore, who understood Muhammad ‘Ali to possess land in Palestine from information he had gathered while visiting the country “continued to press the Pasha”. Muhammad ‘Ali assured Montefiore that, “if he could point out the parts belonging to him,” Sir Moses “could have them”.<sup>17</sup>

In his exchange with Montefiore, Muhammad ‘Ali expressed his eagerness to see the land cultivated, suitable agricultural technologies introduced and trained labourers brought in to work it. It was not until Montefiore mentioned the last of his ideas that Muhammad ‘Ali was swept up with his visitor’s enthusiasm. When the Englishman, “spoke of establishing joint stock banks with a capital of L1,000,000 sterling, with power to increase it, if necessary,” Muhammad ‘Ali’s, “eyes sparkled ... he appeared delighted, and he assured [Montefiore] the bank should have his protection, and he should be happy to see it established.”<sup>18</sup>

From this account, it is clear that Muhammad ‘Ali was not willing to lease any of the land under Khedival control directly to the Englishman. He was willing, however, to authorize his approval of such an arrangement with the confirmation of the Porte. Thus, Muhammad ‘Ali was in this matter willing to abide by the laws governing *musta’mins* in the Ottoman Empire.

The *mutasallim* of Jerusalem at the time was Ahmad Agha al-Dizdar al-’Asali, who had been one of the leaders of the tax rebellion of 1826. Ahmad Agha was to be remembered because of his friendship with Sir Moses Montefiore.<sup>19</sup> It was Ahmad Agha who owned the land, “adjoining the High road from Jerusalem to Hebron within a few minutes’ walk from the Jaffa and Zion gates” which Montefiore bought in 1839 for the first Jewish settlement outside of the walls of Jerusalem.<sup>20</sup> Construction of the buildings called (in Hebrew) Mishkenot Sha’ananim in this suburb of Jerusalem now known as Yemin Moshe began in 1860.<sup>21</sup> The laws governing the Nicolayson transaction would have been similar to the laws that governed Montefiore’s purchases, although Nicolayson was a resident and Montefiore acted through agents, and made his purchases during the Tanzimat Period. Thus, the sale of land or property to foreigners, which had been resisted as late as 1836 on the basis of the *Shari’a* in Jerusalem, was permitted in accordance with Ottoman law by 1839. Political expediency determined which laws would be applied in order for Muhammad ‘Ali to obtain the results that he desired.

## The Sale of Waqf Property to Non-Muslims

A critical document to consider when assessing the relationship of non-Muslims and Muslims in Jerusalem during the 1830s concerned the *Awqaf al-Haramayn al-Sharifayn*, the Imperial Islamic Endowment for Mecca and Medina, which administered *waqf* properties in Jerusalem.<sup>22</sup> The characterization of property in Israel as *waqf* under Islamic law has presented the most serious challenge to the legitimacy of the Israeli state in the twentieth century. The Muslim bureaucracy established in Palestine by the British Mandate authority has asserted that all land in Palestine is *waqf*, set aside for the benefit of the Islamic community, and which can never be alienated from Islamic control. This document provides evidence of a different approach to this problem under the Ottomans, who continued to control these properties even during the time that Muhammad Ali occupied Palestine. However, as we have seen in the first part of this study, the Muslims claimed that the “lands of this region are *miri* and *waqf*” that is, imperial lands and endowments. In Ottoman law, if land or property is neglected, it reverts to the state, which can then sell its use (usufruct) to a buyer who plans to reclaim it and return it to productivity, which in turn will be taxed to support the government or its endowments. In this case, we see this principle carried out.

Al-Sayyid ‘Abdallah Wafa Afandi ‘Alami, a *mutawalli* (legal custodian) of the *waqf* properties in Jerusalem, came to the court in order to represent himself, his uncle al-Sayyid al-Shaykh Yusuf Afandi al-’Alami, and his nephew al-Sayyid Muâçtafa Afandi al-’Alami, who were also *mutawallis* and supervisors (*nazirs*) of the *waqf* in Jerusalem. Also in court were al-Sayyid Husayn al-Sharqa and his brother al-Sayyid Ahmad al-Sharqa, who along with ‘Abdullah Afandi, who testified concerning property in Jerusalem belonging to the *waqf*. This property consisted of a small, untended vegetable garden (*hakura*) on Citadel Street that contained olive trees and Indian fig trees (*sabr* – prickly pears) which had lost its value, and a house next to the garden that was ruined through neglect and heavy snow and rain, and which had thus lost its usefulness for the *waqf*. Therefore, ‘Abdullah Afandi requested that the judge head an investigation of the property to ascertain that it was ruined so that “he could give permission to exchange it for cash (*li-ya’dhanu bi-badali-ha b’il-darahim wa’l-dananir*) to he who wishes to buy the garden as real estate (*‘aqaran ‘imaran*) to benefit the *waqf* or to repair the house.”

The judge responded to his request, appointing along with himself his clerk Mahmud al-Khalidi, his assistant ‘Abdullah Agha, and his bailiff, Quwaydis. This group went to the property and the chief architect al-Hajj ‘Uthman Sadiq al-Nimmari, as well as the witnesses Husayn and Ahmad al-Sharqa all verified that both the garden and the house were in ruins. The chief architect and the investigators appraised the absolute value of the garden at 1,000 *qurush*, and if it were exchanged the *waqf* should be compensated double that (2,000 *qurush*) all of which would go to the *waqf*.



The judge, with these facts in hand, gave permission to ‘Abdullah Afandi and the two other *mutawallis* to ‘exchange’ the property with whomever wished to purchase it. When the conditions for granting permission for the exchange were fulfilled, an Armenian merchant named Wanis, “the son of the *dhimmi* merchant Arwatin” acting on his own behalf, gave ‘Abdullah Afandi 2,000 *qurush* in exchange for the garden in the court. During this period the descriptive title ‘*fakhr*’ – which actually meant ‘glory’ or ‘boast’ was used along with the name of the individual’s peer group, and was used to denote honour or respectability, always referring to urban dwellers. Very frequently the term was used to describe Muslims, particularly the ‘*ulama*’ and the *ashraf*. In this case, it was used to underscore the honour of the Christian who was appearing in the court. The other title, *khujja* (*khojalhojalkhawaja*) used in this text, which initially was used in the Ottoman Empire as a title for teacher, eventually had become a title used by Muslim or non-Muslim merchants to emphasize their respectability in the community. This underlines the honour and dignity enjoyed by all merchants in Islamic society. ‘Abdullah Afandi then accepted the payment in accordance with the *Shari’a* laws governing such a transaction. The exchange was thus completed in accordance with the *Shari’a*, and a deed (‘*aqd*’) was issued documenting the exchange along with the validation of the judge. On that basis, all of the property became the absolute property (*sarat milkan talaqan*) of Wanis to use as he desired, and the money that had been paid in the exchange became *waqf*, to be used as the donor of the *waqf* had indicated in the document establishing the *waqf* for purposes in accordance with the *Shari’a*, or to repair the house next to the garden.

However, after all of the above had been completed, the *mutawalli* of the *waqf* ‘Abdullah Wafa Afandi, on his own behalf and that of the two other *mutawallis*, claimed that the exchange of money for the property was not valid, and that the exchange was not the fair value of the property and with the consideration of the *waqf*, he wanted its return. The Armenian merchant Wanis protested this, saying that the exchange was valid when permission had been granted and given by the court, that the 2,000 was double the value of garden or more, and that the claim made against him by the *mutawalli* was untrue.

So the judge requested evidence for this second claim and called back the chief architect, the two Sharqa brothers and the bailiff, and they testified in front of the judge and in the presence of the *mutawalli* that the 2,000 *qurush* was more than double the value of the garden, and that in that property there was much belonging to the *waqf* that was in ruins. The judge accepted their testimony in accordance with the *Shari’a* and ruled that the transaction was valid when it was first permitted, and it was valid now, for the second time. He forbade the *mutawalli* from making his claim, and the *mutawalli* then acknowledged he would not be permitted to bring any further claims to the court regarding this matter. Furthermore, the judge stated that neither the initial permission to make the exchange nor the exchange itself had been invalidated, and that regarding the second claim a decision had been made forbidding it in accordance

with the *Shari'a*. The judge then gave permission to the merchant (Turkish: *hoja*) Wanis to dispose of the property as his absolute property as he owned his other property: as the possessor of all of the rights of ownership, without his encountering “any opposition or conflict in the exercise of those rights then currently given to those having the right of possession, whose outcome was in accordance with the *Shari'a*.”

This case conforms to the pattern of the challenge clause described by James Reilly in his analysis of deeds of lease he surveyed from the law court registers of Damascus.<sup>23</sup> He found that “rental agreements are challenged by one or two persons... and in all cases sampled these challenges were rejected by the judge.” Reilly explained that the “purpose of this exercise is to strengthen the legality and validity of rental agreements, particularly when the lessors are *waqf* custodians, by rejecting allegations that the interests of the *waqf* are not well served by the agreement under consideration.” He concluded that such agreed upon rentals were never overturned.<sup>24</sup>

However, unlike the deeds that Reilly reviewed, this case was a sale of *waqf* property, although it was termed an exchange – *istibdal*. The trade was cash for property, and when that property was sold it became private property – *milk*. The buyer was instructed simply to treat it as he treated his other private property.<sup>25</sup>

Besides the inherent interest of this case, which clarifies the process by which real property at the disposal of a *waqf* could be ‘sold’ by the legal artifice of ‘exchange’ to become private property under the Ottoman interpretation of Islamic law, this case also touches on other important issues concerning the socioeconomic life of the city. Even at this late date, the *mulla qadi* still exercised authority over the administration of the *waqf* in regard to important matters such as the alienation of imperial *waqf* property in Jerusalem. The purpose of Ottoman government was to ensure that all lands and property were productive, and the religious identity of the owner of the usufruct did not matter. In each of these four cases, we see that resident aliens and dhimmis were able to buy and to sell land in Jerusalem and its environs as they began to participate in the life of the city. The changes that began in this early modern period would have many repercussions in its development.

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## Endnotes

<sup>1</sup> Bat Ye'or, *The Dhimmi: Jews and Christians Under Islam* (Madison: Associated University Presses, 1985).

<sup>2</sup> *Encyclopaedia Judaica*, CD Rom Edition, 2001

<sup>3</sup> The *International Journal of Middle Eastern Studies* (): -published a garbled version of this paragraph contained in my review of Ruth Lamdan's *A Separate People*, on Jewish women, survivors of the Inquisition, who sought to rebuild their lives in Muslim countries.

<sup>4</sup> Lewis, *The Political Language of Islam* (Chicago: The University of Chicago Press, 1988), 61-2.

<sup>5</sup> Lord Kinross, *The Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York: Morrow Quill Paperbacks, 1977), 112.

<sup>6</sup> Jere Bacharach, *A Near East Studies Handbook*, rev. ed. (Seattle: University of Washington Press, 1976), 108.

<sup>7</sup> M. O. H. Ursinus, "Millet," *Encyclopaedia of Islam*, 2d ed., II:61-4.

<sup>8</sup> See Appendix "Note on Millets"

<sup>9</sup> *Ibid.*, 63.

<sup>10</sup> Benjamin Braude and Bernard Lewis, *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society* (New York: Holmes and Meier Publications, Inc., 1982), 73. Also B. Lewis, *The Jews of Islam* (Princeton: Princeton University Press, 1984), 125-6. The term "millet" appears in the plural form (*milal*) in the Khedival order regarding dowers. *LCRJ* 319, 80-1.

<sup>11</sup> F. Buhl and C. E. Bosworth, "Milla," *Encyclopaedia of Islam*, 2d ed., II:62.

<sup>12</sup> Halil Inalcik, "Imtiyazat," *Encyclopaedia of Islam*, 2d ed., 1187.

<sup>13</sup> *LCRJ*, 320, 82. 25 Muharram 1252. Also As'ad Rustum, *Usul*, IV, No. 186, 30. On the history of American consuls in Jerusalem during this period, see Ruth Kark, *American Consuls in the Holy Land 1832-1914* (Detroit: Wayne State University Press, 1994).

<sup>14</sup> *LCRJ* 321, 234. beg. *Dhu'l-Hijja* 1254/15 February 1838.

<sup>15</sup> *LCRJ* 323, 33. 27 *Jamada I* 1255. Martin Gilbert, *Jerusalem: Rebirth of a City* (New York: Viking Penguin, Inc., 1985), 29-30.

<sup>16</sup> Dr. Louis Loewe, ed., *Diaries of Sir Moses and Lady Montefiore* (London: Jewish Historical

Society, 1983 [facsimile of original 1890 edition]) Vol. I, 167.

<sup>17</sup> *Ibid.*, I, 199.

<sup>18</sup> *Ibid.*

<sup>19</sup> Montefiore played an important role as a mediator with Muhammad 'Ali during the blood libel crisis that arose in Damascus following the murder of Padre Tuma. This affair, which drew the attention of the Van Buren administration as well as the English and which fueled interest in the difficult position of the Jewish communities of Syria has been well documented, as is beyond the bounds of this papers. Rustum's *Usul*, Vol.V contains many documents concerning this incident.

<sup>20</sup> *Ibid.*, Vol. II, 51.

<sup>21</sup> Zev Vilnay, *Israel Guide* (Jerusalem: Zev Vilnay, 1985), 24th ed., 93.

<sup>22</sup> *LCRJ* 323, 33-4, end *Rajab* 1255/9 October 1839. Although it begins with the plural for *waqf*, this document then refers to a singular *waqf*. This lends some credibility to the notion that various individual *awqaf* were administered under a large, administrative *waqf*.

<sup>23</sup> James A. Reilly, "Shari'a Court Registers and Land Tenure around Nineteenth-Century Damascus," *Middle East Studies Association Bulletin*, 21:2 (December, 1987), 155-69. Other aspects of this case, including the type of property involved, fits in well with the types described in this article.

<sup>24</sup> *Ibid.*, 161.

<sup>25</sup> See Gabriel Baer in Gilbar, Ottoman Palestine and J. Mandaville, cash *waqfs* in *IJMES* 1979.