Conclusions

I will erect a strong wall between you and them: “Bring me blocks of iron.”

Qur’ān 18: 95-96

If the issue of archival practices is a highly vexed one, the way in which the biases played out in daily business remains a largely neglected research question. Since the outset, I had the chance of gleaning, almost undisturbed, many findings on the legal vicissitudes of Franks living among pre-modern Muslims. Of course, it is far from unexplored territory; a fair amount has been written on the embassies to the Mamluks, ranging from the exchange of diplomatic letters and gifts to the drafting of treaties.¹ The *relazioni* dispatched to the Senate by Venetian diplomats have long been highlighted as a landmark of the European rational approach to cross-cultural diplomacy and information. However, scarce attention has been paid to cross-confessional interactions such as those described in the daily dispatches I have scrutinized in this book.² Indeed, the historian’s eye has usually turned away from the legal issues foreigners stumbled over, to focus instead on the adjacent artistic, diplomatic and economic aspects of their presence, deemed more important. Some aspects pertaining to the Latin Kingdom of Jerusalem have not passed under the radar, such as the complex witnessing rules in Crusader legal books, yet the Mamluks’ major contribution to cross-confessional relations, the *siyāsa* courts, has been ignored, just as Mamluk institutions are rarely connected with any non-Muslim precedent in the Middle East.

Although in Chapters Three and Four, which concentrate on medieval and Ottoman sultans, facts take precedence over scholarly discussion, this does

1 See, among recent contributions, *Mamluk Cairo, a Crossroads for Embassies*, edited by Frédéric Bauden and Malika Dekkiche, Leiden, Brill, 2019.

2 Benzoni, Gino, “Ranke’s favourite source. The Venetian *relazioni*. Impressions with allusions to later historiography”, in: Leopold von Ranke and the Shaping of the Historical Discipline. edited by Georg G. Iggers and James M. Powell. Syracuse University Press, 1990, 45–57.

not mean these facts cannot be read against the strong backdrop of previous scholarship. While I have had the liberty of presenting my findings on *siyāsa*, Frankish merchants in Medieval Syria and Egypt, or on discussions at the *Divān* in an almost empty field, there is an undeniably hefty mass of recent scholarship on Islamic legal practice, which provides an accurate picture of the changing attitudes of Islamic rulers towards the legal system. Studies on Ottoman justice far outnumber those dealing with the Fatimid, Ayyubid and Mamluk periods, not simply because of the dynasty's larger chronological and geographical venture, but also due to a very simple fact: historians of the Ottoman Empire have archives, whereas those dealing with medieval times do not. On this score, the literature that addresses the development of Ottoman justice agrees on one fundamental point: that the Ottomans sought to reverse the Mamluk approach to legal pluralism, with their flexible handling of judges, notaries and legal schools, what Reem Meshal has defined as the replacement of a pluralistic *sharī'a* with an "antagonistic" Ottoman law, based on the predominance of the *ḥanafī* legal guild.³ Mamluk rulers, and more generally medieval sultans, neither intervened on matters of doctrine, nor in the functioning of the judiciary and the schools of law. The sultans were regulators of adjudication, and assigned a sphere of action to judges and officials, while reserving for themselves the right to appoint chief justices. Apart from that, they never interfered with the prerogatives of the legally learned, who continued to decide who could exercise legal reasoning or issue legal opinions.⁴ When medieval sultans intervened in legal matters, they did so as pious Muslims, according to the Islamic principle that any believer is expected to undertake necessary actions on behalf of the community, rather than by virtue of any exceptional power.⁵ The sources mention that several Mamluk sultans and emirs, such as Timurbūghā (ruled 1467–8) and Sayf al-Dīn Ṭāṭār (1421), studied jurisprudence, and portray major rulers such as al-Ashraf Qaytbāy in the act of writing their own *fatwās*, hence accepting the law of the jurists as an

3 Ibrahim, Ahmed Fekry, "Al-Sha'rānī's Response to Legal Purism:: A Theory of Legal Pluralism", *Islamic Law and Society* 20 1-2 (2013), 110–140, Burak, *The second formation of Islamic law: the Hanafi school in the early modern Ottoman empire*,. Alsabagh, "Before Banks: Credit, Society, and Law in Sixteenth-Century Palestine and Syria", 52–61.

4 Fitzgerald, *Ottoman methods of conquest*, 114. Meshal, *Sharia and the Making of the Modern Egyptian*, 93–6. Winter: "The judiciary of late Mamluk and early Ottoman Damascus."

5 Hurvitz, Nimrod: "The Contribution of Early Islamic Rulers to Adjudication and Legislation: The Case of the Mazalim Tribunals", in: *Law and empire: ideas, practices, actors*, edited by Jeroen Duindam, Jill Harries, Caroline Humfress and Nimrod Hurvitz, Leiden—Boston: Brill, 2013, 133–156, 136.

unchallenged frame of reference in matters of governance.⁶ Most scholars would agree that this drastically changed with the rise of Ottoman *kanun* and its consolidation as a corpus of public law. Despite their public image in historiography as despotic rulers, Mamluk sultans took care not to appear in the public eye as eager to slay dissident jurists and judges.⁷ In sum, legal historians generally agree that the Ottoman dynasty, particularly in the 16th century, grafted not only the law but the entire legal system onto the mechanisms of governance. Just like other post-Mongol dynasties, they actively intervened in the structure of the *ḥanafī* legal guild and its doctrines, involved themselves in the appointment of *muftīs*, and developed their own imperial hierarchy of *ulama* and learning establishments. While this book can only contribute to this general scheme with its findings on the changing attitudes towards proof and unbelief, it may also contribute to the more challenging task of making sense of this grafting.

The rationale for the early modern incorporation of justice into governance is usually pinned on the pragmatic attitude of the Ottoman state, and in the negotiating, accommodating legal culture of the dynasty. *Istiḥsān*, or juristic preference, intervened in ample areas of Ottoman legal action, such as witnessing, in the same manner that most commentators attribute, one way or another, the many controversial issues related to the capitulations to convenience. An analogous consensus exists regarding the Mamluks' relationship with the legal system, which sees the sultan's patronage over legal scholars and their associations as equitable and symbiotic in nature. Symbiotic, inasmuch as rulers had more to gain from sponsoring scholars, than from challenging them by attempting to dictate legal doctrine, as had happened under the 'Abbasid caliphs. The Ayyubids and Mamluks drew much of their legitimacy from their sponsorship of the four-*madhhab* system, which they housed in four-*iwān* madrasas and mosques built around a central hall, and, similarly, from their support for *maẓālim* justice displayed in public places and in the Hall of Justice (*dār al-'adl*), also a late-medieval innovation. The legally learned, in exchange for their doctrinal autonomy, rarely attempted to obstruct the sultan's designs. The relationship was equitable in the sense that, while sponsoring all forms of Islamic legal identity, the share of each school was not strictly egalitarian; *shāfi'īs*, and sometimes *ḥanafīs*, were privileged over *ḥanbalīs* and *mālikīs*, and some legal agents such as *ḥājibs* and *wakīls* were promoted and

6 Irwin, "Privatization", 69–70, Fitzgerald, *Ottoman methods of conquest*, 114.

7 Winter: "The judiciary of late Mamluk and early Ottoman Damascus: The administrative, social and cultural transformation of the system".

their jurisdictions enlarged.⁸ The practical expansion of royal justice on the basis of available theories has been, all too often, interpreted in negative terms by historians. Only in recent years have Youssef Rapoport and Christian Müller called for a more articulated vision of the justice dispensed by the qadis, and by those jurisdictions that drew from the executive power of sultans and officials, such as the market inspector or the ḥājib himself. Royal justice, in spite of complaints by many ulama, was rooted in sharī'a and hence complied to its principal forms and manifestations. Jurists accepted the prerogative granted to Mamluk officials in the vests of judges to mete out punishments and deal with proof and procedure, so as to safeguard the interests of the Muslim community. In turn, Mamluk rulers took good note of the legal solutions issued by jurists—as demonstrated in Sultan Barqūq's opportunistic recourse to a Persian merchant's complaint against the defiant qadi al-Qurshī. Mamluk judges handled procedural issues, such as oaths or written evidence, with the participation of those foreigners to whom the law applied, without overtly challenging Islamic normativity—as would be the case, for example, if a Muslim was imprisoned on the grounds of Frankish testimony alone. Descriptions of siyāsa hearings suggest that judges adopted a juristic view, without necessarily interrogating normative texts (taqlīd).⁹ Left in the hands of jurists and judges, the affairs of foreign unbelievers were dealt with fairly within the limits of Islamic traditional normativity. To my knowledge, however, no researcher has thus far sought to offer a positive interpretation of the Mamluk approach to relations with infidels, dhimmīs and mustā'mins alike.

Researchers have a tendency to present Latin Christians as free from sin, having inherited a classical legal background in which religion was irrelevant in the courtroom and therefore no witness could be prevented from being an actor in the legal system. Yet we have seen that, against this ideal backdrop, in Mediterranean markets no Jew ever dared to present himself as a valid witness for a transaction between their Christian social superiors. As the deeds of the *outremer* notaries demonstrate, minorities bore witness only among themselves. In addition, the claims of Christian actors soon contributed to the erosion of classical Roman law in Byzantium, which asked for the discrimination of unbelievers. This tendency reached its peak in the Crusader courts and markets, with their complex regulations on the taking of oaths and testimony

8 I have dealt extensively on the charge of the wakīl al-sultān in Apellániz, Francisco: *Pouvoir et finance en Méditerranée pré-moderne: le deuxième état mamelouk et le commerce des épices (1382–1517)*, Barcelona: CSIC, 2009.

9 Ibrahim, "Al-Sha'rānī's Response to Legal Purism: A Theory of Legal Pluralism", Rapoport, "Legal Diversity in the Age of Taqlid: the Four Chief Qadis Under the Mamluks."

across confessional boundaries. To cope with the complexities of dealing across confessions, the Crusader marketplace was left in the hands of the jurists, who set up a legalistic system of technicalities, and the vast production of law codes in the period testifies to this. These regulations may well have appeared strange to contemporary rulers on the continent, who lived in increasingly mono-confessional societies where such distinctions had few practical applications. Instead, societies exposed to the presence of unbelievers, such as the ever-expanding Castile, adopted without hesitation elements of Islamic legal pluralism, such as the oath-taking biases and procedures examined here. The myth of a substantive legal system rooted in Roman law as against a formalistic, idealistic and skeptical Islamic system finds its origin-point in the public faith given to notarial deeds. I have attempted to demonstrate here that Latin legal systems were far more permeable than is often believed, implying deep-rooted relationships and continuities between different legal cultures, and that the supposedly classical ancestry of some key institutions such as *publica fides* is not convincing. Islamic laws of evidence, in fact, look very similar to those passed under Justinian, while the Western notary is very much a late medieval innovation.

When it came to dealing with foreigners and legal relations, this book's contention is that the Mamluk approach to cross-confessional issues was rooted in Middle Eastern traditions, and that their law courts were conducive to handling mixed conflicts, and even became the preferred forum for issues between Franks. More importantly, this process was achieved without overtly challenging *sharī'a* norms, but instead by maintaining a symbiotic relationship with jurists, and their elaboration of available, if dated, doctrines on governance. In addition, the Mamluk enterprise of governance attempted to be inclusive of the judiciary as a whole, since as we have seen, the otherwise suspect *ḥanbalīs* served the purposes of governors, as in the case of regulations protecting foreign merchants. The rationale for the Mamluk legal handling of foreignness and unbelief was to keep its incumbent, changing presence within the limits of the available legal system. To cope with Franks and their legal needs, the Mamluks' strategy focused on adjudication procedures, laws of obligation towards non-Muslims, and sponsored notarization at all levels. Rather than indulging in an ad hoc, pragmatic policy of grating privileges to European partners, the Mamluks fully exploited the legal resources at their disposal. They mobilized notaries and judges of all sorts—ranging from *qadis* to officials and from *simsārs* to customs clerks—and demonstrated a hitherto unknown degree of sophistication in diplomacy, and most particularly in the drafting of *amān*. Jurists—ranging from the Mamluk-sponsored *al-Subkī* and *al-Aynī*, to the unruly *Ibn Taymīyah* and his disciples—played a part in a process that was not

only driven from above. In the same vein, bottom-up forces affected the Mamluk model of market/court relations with infidels, as in the case of Franks that called on *siyāsa* judges to arbitrate their own intra-communal disputes. The jurists summoned sultans and officials to inflict non-Quranic punishments, open investigations and trials, and deal with circumstantial evidence in ways that the *qadis* were reluctant to do. The sultans, in exchange, drew on the jurists' legitimacy to deal with the businesses and claims of suspect *ḥarbīs*. Yet at an imprecise time around 1500—to use Ibn Iyās' metaphor describing the Portuguese arrival in the Indian Ocean—the Franks managed to breach the mythical wall erected by Alexander Dhū-l-Qarnayn to keep Gog and Magog away from humankind, and separating the Mediterranean and the China Seas.¹⁰ In a 16th-century Mediterranean marked by the coexistence of empires, such as the Ottoman and the Venetian, a new wall was raised between members of the two principal imperial confessions. The traditional balance maintained by sultans, in their relationship with the legally learned, was profoundly altered, particularly in the post-1517 Arab provinces, in the same manner that Frankish communities and their legal issues soon outgrew their marginal role not only in the courts and markets, but also in political discourse. Just as current views on Mamluk relations with infidels have proven insufficient for understanding the complexity of the sultans' approach, the descriptions presented in this book on the handling of cross-confessional relations by the Ottomans call for a rethinking of the current pragmatist or ecumenic paradigms with which the dynasty has been typecast.

Rather than pointing an accusing finger at Ottoman contradictions, my approach has been instead to acknowledge the emergence of Ottoman practice through two contradictory trends; one whereby the subjects concerned with Ottoman law were accommodated in its practical application, and another, parallel tendency to use the law as a means to arrest social change. To this end, I make use of the conceptual tools proposed by Baki Tezcan for analyzing Ottoman politics, who argues for the existence of two opposing tendencies in medieval and early modern Islamic governance: one moving in an absolutist direction, and another alternative, 'constitutional' one that looked to religious normativity for the limits of sultanian, executive power. In keeping with previous studies on the Ottomans' relationship with the law, with its sponsoring of specific legal actors, courts, archives and written artifacts at the expense of others, it seems clear at this point that Ottoman governance moved in an absolutist direction when dealing with the affairs of foreigners. In their *amān* clauses,

10 Ibn Iyās, *Badā'ī' al-Zuhūr*, IV, 109.

bans and other decrees—such as that issued for Aleppo—the Ottoman sultans began terming their decisions on the conduct of cross-confessional affairs in the first person. However, Tezcan warns that these two tendencies did not dovetail into conservative and liberal political approaches respectively. On the one hand, the sultan publicly expressed his respect for the law of the jurists, by adhering to governing *sharīʿa* principles as regards proof and evidence. By fixing his positions regarding witnesses, the ruler acknowledged the divine nature of the law as interpreted by jurists, and adopted a conservative attitude by pretending the law to arrest social change. This became all the more evident in the sultans' pretensions over borderland territories and piracy issues, with their resulting loads of captive bodies, where they placed the burden of proof uniquely on Christian plaintiffs and their valueless testimony.

The worldly nature of public, *kanun* law, however, could on occasion nuance juridical thinking, and even overtly challenge it. Just as important as adhering to the jurists' viewpoint, the Ottoman sultan's own *kanun* on the rights of *mustāʾmins* implied the acceptance that the law had to adapt to the realities of social change. The ruler departed from the jurists' viewpoint in that he promoted the thesis that all unbelievers, *dhimmīs* and foreigners alike, constituted a single community, and some of his positions on *amān* theory and witnessing challenged the views of alleged supporters of the state such as Ebu's-Su'ud. If the sultan adopted an uncomfortable conservatism as regards the first bias at the center of this book—namely, witnessing—in parallel he issued 'liberal' *kanuns* protecting Franks from the potential loss of rights, allowing them, for instance, to face trials without the direct intervention of Muslim witnesses. Thus, although the sultan sent an absolutist message in terms of witnessing and unbelief, some elements of that same message were conservative, while others were liberal.

Mamluk *amān* treaties tend to bear a monotonous resemblance with each other, since juristic solutions necessarily applied to everyone; the Ottomans left instead key issues in the handling of cross-confessional relations to executive decrees, that applied arbitrarily for the different foreign nations.¹¹ The Mamluk approach to foreigners was, as in the case of their Crusader forerunners, to leave matters in the hands of specialists of *sharīʿa*, who took care of such issues as a technicality, a matter of *fatwās* and adjudication procedures, and in practice transferred cases to the royal courts and officials. This legalistic, medieval approach to the *mustāʾmins* was replaced under the Ottomans by a more political logic, of which the Venetian case is the most emblematic. The

11 Wansbrough, "Venice and Florence".

political nature of this relationship, hence not primarily dictated by economic motivations nor by mere convenience, can be appreciated in the absence of any reference in Venetian treaties to the major privilege granted to Europeans in evidentiary matters: the right not to be condemned on the basis of Muslim testimony but on that of written documents. Far from fighting for the acquisition of arbitrary privileges, Venice presented herself at the Porte as declining these procedural concessions, and as a dhimmī-like community whose representatives were heard on an equal footing. The political relation with the Porte manifested itself in the ambiguity of *divān* sessions, where diplomatic agendas were treated as any other legal business. In contrast with their predecessors, who may have discerned more clearly between bilateral and legal issues, when it came to the discrimination of non-Muslims, an orthodox approach to *sharī'a* was endorsed by the dynasty. This attitude transcended the sphere of the courthouse to become an integral part of the Ottoman political discourse delivered, time and again, to the European consuls and ambassadors. Against the backdrop of this orthodox approach to divine law, the liberal aspects of the absolutist message were expressed in the language of public law, through executive decrees, including the ban on Muslim witnesses or the Aleppo *ferman*. The consolidation of public law went hand-in-hand with the inception of a truly archival culture associated with the courthouse, with decrees now included in the qadi's *sijills*. Conversely, the conservative backbone of this absolutist message adhered to the *sharī'a* principles on truth sponsored by early jurists, and it was adopted at the risk of encountering constant hurdles at the borders and at sea. Thus liberal nuances affected, though not exclusively, the new status of written evidence in cross-confessional exchanges.

The Mamluks, instead, saw themselves as unconditional *constitutionalists*. The foundational act marking their rise to power was the delegation of full executive power from a legitimate Abbasid Caliph to the sultan al-Manṣūr Qalāwūn (1279–1290). The leading role of the ulama among the urban population has been sufficiently stressed by classic authors such as Ira M. Lapidus or Ulrich Haarmann. Under the aegis of the Mamluk sultans, spurious elements of the arbitration system were purged, and the moral prerogative of righteous Muslims—as epitomized by the *ʿudūl*—over the truths of early life extended beyond hitherto known areas. Qadis concentrated jurisdiction over cross-confessional cases and, under the Circassians, they shared it with officials deemed legitimate judges by the revered theories of *Siyasah*. Relations with unbelievers were increasingly dictated by a repertoire of legal principles such as the postulates of *al-siyāsa al-sharʿiyya* and the doctrines of *ʿahd* and *amān*. When paying visits to sufi masters or building welfare complexes in Mecca, when standing the provocations of the ḥanbalis and refraining from

putting away dissident ulema, the Mamluk sultans were acknowledging the role of the shari'a-minded in limiting their own executive power. I believe that the prevalence of the piety-minded and their values on areas such as truth-bearing is ultimately responsible for the hampering of a real archival culture in the stronghold of chancery and scribal traditions. Whenever the Abbasid and Fatimid caliphs kept archives, they yielded to the shari'a-based regime of truth sponsored by the legally learned. The sophistication of *amān* and *siyāsa* theories created the conditions for the flourishing of diplomacy and made Cairo 'a crossroads for embassies'. The legal and piety-minded were now empowered in areas that had traditionally been left in the hands of dragomans, diplomats and secretaries. From the vantage point offered by courts and markets, there emerges a historical time in which governance, chancery and cross-confessional practices were filled with shari'a-based notions and ideas. This *age of the ulama* can be located between the rise of *siyāsa* as a distinct post-Crusade phenomenon and the twilight of the Mamluk commercial empire with the Ottoman conquest of Egypt and Syria.

The pragmatist interpretation of Ottoman attitudes towards the European powers, as opposed to those of the despotic Mamluks, has long identified the *Dīvān* as a privileged locus for cross-confessional exchange. However, the Istanbul *Dīvān* and similar forums where privileges were obtained, and where balances of power allegedly led to the adoption of pragmatic decisions—such as the granting of capitulations and *berats*—are not the only setting in which we can observe cross-confessional diplomacy at work. As demonstrated by discussions revolving around the biases against non-Muslims, Islamic normativity manifested itself in a vast range of exchanges and relationships between Muslim polities and their European counterparts. Against the grain of recent trends in diplomatic history, and in light of the examples explored in this book, it would be fair to note that religious principles were respected and even became guidelines for the actual practice of diplomacy and other cross-confessional interactions. Recent cultural analyses of cross-cultural diplomacy take place in a late-modern, decline scenario where a weakened Ottoman power contravened shari'a norms and accepted agreements in order to satisfy imperatives of convenience and balances of power. In the recent analysis by Christian Windler, Islamic normativity was not central to relations at the *Dīvān*, an interaction that was instead primarily dependent upon the actors' (consuls in this case) experience and skill.¹²

12 Windler, Christian, "Diplomatic History as a Field for Cultural Analysis: Muslim-Christian Relations in Tunis, 1700–1840", *The Historical Journal* 44.1 (2001), 79–106.

Such an analysis sees both parties as being characterized by fundamental differences in terms of their values and vision of the world, and that negotiators attached different meanings to the same gestures and facts. Relations were fueled, in spite of this fundamental divide, by the capacity to reach compromises on specific points of contact. For instance, in the Maghreb regencies, hand-kissing was considered to be most humiliating by the Franks, however once they gained the privilege of kissing the bey's hand more privately, the ceremony was no longer felt to be degrading, while for the bey it kept intact its political meaning of superiority. This cultural interpretation holds that change did actually happen, but that it was circumscribed to variations in the ceremonial, and in the repertoire of norms governing cross-confessional exchanges. In addition, some medievalists have argued that in the field of legal exchange, interaction was limited to the occasional acceptance and exchange of tokens—proofs in this case—produced by the contender, whenever these proofs were compliant with the other's own system of norms.¹³ This common approach to Mediterranean history sees agreements as being reached in order to accept a legal or diplomatic item as valid, while a deeper exchange of values never happened. In other words, legal systems were kept fundamentally isolated in the medieval Mediterranean—or, as Michel Balard puts it, “the gates of the funduq separated two worlds that knew nothing of each other.”¹⁴ Such a narrow interpretation stands in marked contrast with the legal milieus we see in Alexandria and Damascus in Chapter Three, where actors made promiscuous use of courts and notaries, and where institutions, irrespective of religion, had the capacity to mutually enforce each other's decisions.

Sixteenth-century Istanbul and the imperial divān represent a challenging unity of analysis when compared with the unequal setting of the eighteenth- and nineteenth-century regencies. I have not come across any situation in which one of the parties aimed to make their opponent “lose face”, the main

13 Valérian: “Le recours à l'écrit”, 68.

14 Balard, Michel: “Relations économiques entre l'Occident et le monde islamique à la fin du Moyen Age”, in: *Istituto Internazionale di Storia Economica “F. Datini”, Atti della xxxviii Settimana di Studi: Relazioni economiche tra Europa e mondo islamico. Secoli XIII–XVIII t.1*, 193–218. Firenze 2007, 218. It was not undue attachment to a given system of norms and values that dictated other aspects of cross-confessional relations, but instead conjectures and balances of power; see, for instance Valérian, “La résolution des conflits”, Valérian, Dominique, “Les marchands latins dans les ports musulmans méditerranéens: une minorité confinée dans des espaces communautaires?”, *Revue des mondes musulmans et de la Méditerranée* 107–110 (2005), 437–458.

device at work in Windler's analysis. At the Porte, hand-kissing, the epitome of the diplomat's struggle for symbolic domination, did not exist. This struggle for symbolic domination stands in marked contrast with the trove of practices I have described, that were functional to the 'political', bilateral relations maintained between Venetians and Turks—exemplified by, as we have seen, the frequent exchange of jokes. Rather than attempting to twist each other's arms with the aim of gaining symbolic trophies for their own system of values, interlocutors at the *Dīvān* proved not only to be aware of each other's standards, but also—even if they were not necessarily in mutual agreement—the Venetians displayed a strong degree of empathy for the Turks' commitment to divine law. Only twice did Italian diplomats attempt to twist the arm of Ottoman administrators by requesting that unbelievers be accepted as witnesses: once, quickly refused, by the inexperienced Florentines, and a second time in 1522 by a disoriented doge, a request that was quickly censored by the acting ambassador.

Rather than precise agreements whose objective was to 'save the face' of both parties, in a context of conflicting systems of values, one conversation between the Turkish-speaking Giovanni Dario and the pashas can be further added to the exempla offered so far. The two were, once again, discussing the inconveniences encountered when dealing with Christian captives—although, as mentioned earlier, the Ottomans were open to granting value to the bailo's word when dealing with the deliverance of prisoners. The arguments advanced and the tone used by Dario suggest that, beyond seeking to obtain specific goals and privileges, there was no symbolic or linguistic struggle for domination at play, and that the meaning given by both contenders to concepts such as slavery were very much the same. In a discussion dated September 1484, the pasha admitted that "everyone is inclined to free slaves," and that since Frankish captives were arriving in large numbers in Istanbul due to piracy or borderland violence, he suggested that they may well "put our strict laws aside," and proceed "us pashas and you Venetians" together to investigate each individual case and to "draft the captives list," hearing their cases and circumstances before adopting a common decision. In this way "our [the pashas'] judgment" could not be suspected of partiality. Acknowledging the pasha's goodwill, Dario replied that "neither I nor the bailo would ever, in the Doge's name, free a slave not legally belonging to us." "If we did such a thing," he argued, "we would offend first God, since it was no less a sin to unjustly free a legally bought slave than to enslave a free man." So, for Dario, Venetians "simply want assurance that our citizens will no longer be captured, as [Islamic] justice requests, and that those already captured will be freed." Beyond resolving the specific issues on their agenda, Venetian ambassadors

rarely clashed over cultural interpretations of the same facts, nor did they seek to challenge Islamic notions and beliefs.¹⁵

It is not my aim, however, to paint a rosy picture of cross-confessional relations, but rather to reposition our understanding of how foreigners and their legal issues were handled, and away from a scenario insisting upon unequal power relations. My objective has been to present a historical setting—that of the 16th-century Mediterranean—in which new and challenging boundaries were being raised. The barrier was not, like in Qurʾān 18:95–96, cast out of the iron of essentialist definitions of culture, but instead came into being by virtue of divergent normative systems inherited from the past. Adherence to shariʿa was taken very seriously after 1517, and required a profound reconfiguration of relations across confessions. Commercial litigation, and more generally court-and-market interactions, are a privileged viewpoint for observing a phenomenon that, I believe, has passed by largely unremarked. Rather than constituting a deliberate choice, the adoption of evidentiary standards was the result of parallel, sometimes conflicting forces. The willingness to purge the allegedly corrupt Mamluk judiciary, the empowerment of ḥanafī judges at the expense of ḥājibs, the Ottoman aversion for those ʿudūl blackmailing their clients in the markets, or the rise of a logic of preservation for the written, all conspired for the adoption of a new ethics.

If I am not suggesting that the biases were adopted because they were functional to a given imperial or absolutist project, it is fair to say that the value given to these biases against disbelievers helped to demarcate social and religious boundaries and to mark out the role of the ruler in sanctioning the superiority of Muslims and shariʿa in an increasingly promiscuous empire. On their side, instead of fostering conflict and disagreements, not only elite mediators but most dhimmīs and Franks involved acknowledged such values and beliefs, hence contributing to the spread of legal knowledge, diplomatic practices and political relations in which merchants, as well as consuls and slaves, were

15 “et aliberar schiaui ogni vno e inclinado da la natura ma la via del mezo seria questa che messe da canto le leze nostre cusi strette. nui Bassa insieme cum vui fossamo cognitori de questa facenda et cbe ne fosse apuntadi li schiaui et che li vedessamo et aldissamo et considerade le circostantie li zudegassamo et chel nostro iudicio seria perfetto et non seria suspecto et che partito che seria mi da la porta misser lo Baylo intrasse in mio luogo et che voleua esser cum el Signor et far che questo modo se obseruasse li respi che lo aseguraa de questo che ne la M.cia del Baylo ne mi ne persona alchuna che fosse in questa parte per name de la Ex. v.ra franchessamo mai alchuno schiauo che non fosse di nostri per quanta habiamo cara la vita per che offendessamo prima dio per che non era manco peccado a liberar vn schiauo comprado contra rason dezo che era de far schiauo vnomo libero,” Dario, 22 *dispacci*, 94.

embedded. Beyond setting some crucial lines of demarcation, the 'bronze wall' was not meant to seal all interaction between communities, since it was accompanied by a series of measures and practical interpretations of the biases that favored exchange rather than impeding it. In a similar manner, ransoming oiled commerce with the Ottoman regencies, as has been pointed out by Wolfgang Kaiser, and I believe that the necessary legal knowledge now required of Franks in terms of registering transactions, dealing with judges and the legal principles applied in the qadi courts, was ultimately beneficial to trade. It entailed an unprecedented degree of cultural, and in this case, legal, awareness, and was responsible for the blossoming of Istanbul as a central forum for diplomatic and material exchange.¹⁶

16 Kaiser, Wolfgang, "L'économie de la rançon en Méditerranée occidentale (xvie-xviie siècle)", *Hypothèses* 101 (2007), 359–368.