MISCELLANEA

INCIDENCES OF *WAQF* CASES IN THREE CAIRO COURTS: 1640-1802

This statistical analysis seeks to test the validity of two general impressions the author had derived from his earlier work in the *waqf* archives of Cairo, namely that land and urban property were encumbered in *waqf* (pious endowment) at an accelerated rate in the eighteenth century and that women and members of the military elite (mamluks and ojaqlis) played a statistically significant role as *waqifs* (donors of *waqf*) in this process. Whereas the registers of the various shari'ah courts of Cairo are well indexed, it was possible to use the brief time of three months allotted to me in the summer of 1979 to survey a broad enough time span in the indexes of three of these courts to collect a statistical sample from which several general trends could be expected to emerge.

**Methodology**

The indexes on donors of *waqf* from three Cairo courts were chosen to produce a statistical sample. The main government court of al-Bâb al-`Ali was a natural choice since this was the most important and active court in Cairo and could be expected to produce a sizable sample. The *waqf* indexes of two other courts, al-Šâlihiyah al-Najmiyah, a minor court in a poorer section of Cairo, and Ibn Tulûn, an increasingly prominent inner urban court, were used to gather statistics that might be compared usefully to the sample derived from the indexes of al-Bâb al-`Ali court. Because of the considerable differences among the three courts in importance, geographic location, clientele and social significance, it was felt that a better test of general patterns might be obtained through comparison. If all three courts produced the same type of figures we could speak with confidence of general trends.

It was intended to take a ten year span from every fifty year period to produce a sample, but this was impossible because the smaller courts did not register cases every year. In some periods the court of al-Šâlihiyah al-Najmiyah, for instance, registered no cases for six or seven consecutive years (1059-1065). In this case the sample was either collected from beyond the ten year time span or was left deficient for that decade when it was necessary to find data too far beyond the decade. Such was the case for the court of al-Šâlihiyah al-Najmiyah.

The first two periods from which statistics were assembled were 1050-1065 A.H. (1640-1655) and 1099-1110 A.H. (1687-1699). Samples were also taken from the period 1150-1159 A.H. (1737-1746), 1178-1182 A.H. (1764-1769), and 1211-1216 A.H. (1796-1802). The period 1178-1182 was specifically chosen because it was one in which the authority of the Ottoman governor had been seriously circumscribed. It is the period of the rise of `Ali Bey al-Kâbir to power, his first exile and return, and the beginning of his rebellion against the Ottoman Empire. The period 1211-1216 brackets the French occupation of Egypt. These particular periods were selected for study to provide statistical evidence of trends of which the author was aware from manuscript sources. It is also possible to see how political conflicts,
namely Ali Bey’s rise to power and the French occupation, affect the statistics. The statistical tabulations are assembled in the appendix.

The statistics for the latter period are somewhat skewed by averaging the sample over a six year span. Were we to ignore the two to three years the courts were effectively closed during the French presence we would obtain much higher results in all the categories. The general trends are nevertheless well established by the figures presented in Tables 1-5 of the appendix.

Some comments must be made about the type of data assembled in the indexes used in this study. Several types of series exist. Each is an index of a particular type of case taken from the general registers of the courts. The series used in this study was prepared to index cases in which a waqf was established. Although they contain a few references to other types of transactions, such as reports on supervision (taqrīr al-nathar) and claims to rations (jirān), these were not the main focus of this index. In addition to the donors (waqīfāt), this index includes the names of witnesses to the creation of waqf (ishhād waqf) and the names of people claiming to be beneficiaries of established waqaf (istikhāq). Information on supervisors and rations is contained in other specialized indexes.

These indexes most clearly identify women, mamluks, ojaqlis and high government officials. Other social groups such as ‘ulamā’, merchants and members of sufi orders or guilds are not identified in this series of indexes. By the middle of the eighteenth century it is no longer possible to keep mamluks and ojaqlis separate because mamluks had infiltrated the Ottoman military corps in great numbers and are frequently cited as both mamluks and ojaqlis. It was necessary, therefore, to combine these two groups to form one statistical unit. In this study the statistics for women are compared with the statistics for the mamluk-ojaqli group. Their percentages represent their share of the total cases registered in these three courts by all segments of the population.

The Courts

The main court known as al-Bab al-‘Alī not only served the Ottoman administration and the ruling elites, but also the general public. It was as if this court was more authoritative, more able to protect litigants, than other courts. One frequently finds copies of waqfiyyât preserved in the registers of this court, as if the signature of the chief judge gave added protection to the donors. Its indexes produced statistics for virtually every year of the periods selected for this survey.

The statistics demonstrate that al-Bab al-‘Alī court recorded the greatest number and broadest range of cases, was seldom closed, and catered to the social and political elite of Cairo. Most of the cases of istibqāq (the certification of beneficiaries) were recorded in al-Bab al-‘Alī court. A high percentage of its recorded cases involved the general public, particularly the female population. (See Table 2).

The court of al-Ṣalihīyah al-Najmīyah remained a small and insignificant court throughout the period of this survey9). In many years so few cases were registered in the daftars of this court as to make the data statistically irrelevant. Although the statistics gleaned from its indexes are often spotty, they nevertheless substantiate several general trends that are evident in the fuller statistics of the other two courts. (See below).