

**Seeking Justice: Muslim and non-Muslim in the *Kadı's* Court. A  
Case Study of Kayseri, 1610s-1690  
(according to *şer'iyye sicilleri of Kayseri*)**

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**Özet**

Kayseri şer'iyye sicilleri içerisindeki kayıtlardan hareketle kaleme alınmış olan bu çalışma arşiv belgeleri/bilgileri ışığında yakınođu devlet anlayışını kısa bir şekilde irdelemekte ve Osmanlı toplumunda kadı/kadılık müessesinin fonksiyonları hakkında açıklayıcı bilgiler verdikten sonra çalışma konumuzun ilgilendiđi kadarıyla Osmanlı hukuk sistemi içerisinde şikayete konu olan *mâli* hususların 17. Yüzyıl Kayserisi'nde nasıl ele alınıp incelendiđi konusunu incelemektedir. Bu araştırma ile maksadımız Osmanlı sosyal hayatı içerisinde yaşayan insanların karşılaştırmış oldukları sorunlar ile ilgili hak arama anlayışlarının nasıl olduđunu Müslim/Gayr-i Müslim çerçevesinde ortaya koymaktır.

**Anahtar Kelimeler:** Adalet, Şer'iyye Sicilleri, Kayseri, Vergi, Osmanlı hukuku.

**Abstract**

This paper on seeking justice regarding *avâriz* –tax assessment and payment relies on the *şer'iyye sicils* of Kayseri. It begins by reviewing the traditional Near Eastern concept of State Justice in conjunction with the archival evidences. By examining the court cases and the imperial orders in these *sicils* it will be possible for us to assess how both Ottoman judicial system and central administration dealt with the complaints regarding the *avâriz* levies in the Ottoman sub-province of Kayseri, 1610s-1690. It will then be possible for us to see how common people, Muslim and non-Muslim alike, fought with rising problems in the *avâriz tax*-system, or how they sought justice, and to what decree they knew what was their legal right and what not by examining the *sicils* themselves.

**Key Words:** Justice, Court Records, Kayseri, Tax, Ottoman Law.

### **Introduction.**

"To control the state requires a large army. To support the troops requires great wealth. To obtain this wealth the people must be prosperous. For the people to be prosperous the law must be just. If any one of these is neglected the state will collapse." Kutadgu Bilig (1069 AD)<sup>2</sup>

It is believed that in the Near Eastern concept of state, justice means the protection of subjects against any kind of abuse, oppression from the representatives of state authority and in particular, against illegal taxation and excessive tax demands. To maintain both justice and the good of the people and to avoid any wrong doing was the sovereign's primary duty. Therefore, in accordance with the Islamic tradition, the Ottoman sultans considered their subjects, Muslims and non-Muslims alike, as *reaya*, flock - to be guarded and protected - and they believed God had given them the *reaya* in trust.<sup>3</sup> The provision of justice, protecting the weak from the strong, was a basic precept of Ottoman rule. The sultans were not only regularly available to receive petitions of complaint from subjects of no matter what ethnic origin, rank or of importance, they were, as it was also in the best interest of the government to see that grievances were known to be dealt with promptly and fairly.

By examining the entries in the *şer'iyye sicilleri* of Kayseri for the period 1610s to 1690 we will be able to see how tax-related complaints were dealt with in Kayseri, how common people were able to raise problems and seek justice, and to what degree they were aware of their rights in examining the registers themselves. Although a more extensive study remains to be done, we will at least be able to see how the central administration and the local judicial system dealt with such complaints. First, however, I will give some basic information on complaint procedure and the *kadı*'s role in handling such problems.

### **1. Complaints procedure and the role of the *kadı***

The *kadı*, whose office maintained these *sicils*, was the major link connecting the central government with the mass of its citizens. All major imperial orders on any matter sent out to the provincial districts were addressed to the *kadı*, including those intended for local military-administrative authorities. All were copied into these registers. Any matter requiring official resolution, registration, verification, or adjudication was potentially the domain of the *kadı*. In the case of any dispute between the tax-paying population and government officials, or between groups of local

people, it was the *kadı*'s duty to resolve the problem, and then to record the case into the *sicils*. The *sicils* therefore give firsthand information on various problems, and contain highly valuable information on many aspects of daily life in Ottoman society, in particular the socio-economic conditions.<sup>4</sup>

Several *avâriz*-related petitions recorded in the *sicils* of Kayseri came from the tax-paying population of different villages and urban *mahalles*. In many cases it is clear that the previous entries in the *sicils* were examined by the *kadı* in order to find out the accuracy of the present complaints, and to make sure of the testimony of the current practices, and that their place within the system was correct in relation to such complaints. The *kadı* would have recorded the details of the current *avâriz* survey registers for the region into the *sicils*, according to the *kanun*. It was for this reason that the *sicils* were always considered as one of the main sources for settling legal disputes in addition to the provincial *kanunname*<sup>5</sup> in use at the time.

In his role as the local supervisor of the collection of *avâriz* taxes, it was the *kadı*'s job to ensure that his copy of the *avâriz* register was kept up to date and amended where necessary, according to the decisions recorded in previous *sicils*. The copies of the *avâriz* registers and the decisions recorded in previous *sicils* were regularly consulted by the *kadı* as a main source of precedent and analogy for settling current legal disputes.<sup>6</sup> In that sense the registers constituted a collection of case law which could be referred to in addition to the statute law of the provincial *kanunname*. Many cases from the *sicils* of Kayseri used for this study show either the *kadı* or the people about whom such complaints were made, referring to previous registers in order to be able to establish the facts of the dispute.

Most local complaints were made to the *kadı* and settled by him as indicated above. In some instances, however, a petition for redress of grievances would be sent to the imperial *divan* in İstanbul, either directly from the complainants or via the *kadı*. In certain cases, the person demanding redress remained anonymous, and avoided appearing in person, making use of the *kadı* to present their complaints. In other cases, the petitioners perhaps did not regard it as sufficient enough to ask the *kadı* to forward their petitions or complaints, so they, themselves personally went directly to İstanbul.<sup>7</sup>

Upon arrival of such complaints, the imperial *divan* sent out orders to *kadıs* regarding those petitions it deemed worthy of consideration. An order would be sent requiring that a certain case be heard by the court, in

accordance with the *şer'*,<sup>8</sup> if it had not already been heard, or that a matter could be re-opened or re-studied. However, it was never ordered that a specific decision would be taken, since the imperial *divan* could not easily investigate all sides to all the petitions it received from all over the Empire. This was as a result of the Ottoman central government's policy of judicial non-interference. For this reason, legal procedures were left completely in the hands of the *kadı*s in the districts.<sup>9</sup>

The disputes brought before the *kadı* were of four main types: (1) complaints about the number of *avârizhânes* assessed in a given area, (2) complaints by local people against individuals who refused to pay their share of *avâriz* taxes on the grounds that they personally were exempt, (3) complaints regarding unjust tax demands by the tax collectors or other people involved during the *avâriz* collection, and (4) disputes between certain inhabitants of Kayseri over *avâriz* levies.

First, we need to define what an *avârizhâne* was in the Ottoman practice. The term *avârizhâne* denotes an administratively-defined 'tax household' or 'tax house unit'. In the fifteenth and early sixteenth century one *avârizhâne* comprised of just one *hâne* (real household) or *nefer* (adult male) but by the seventeenth century the system had changed to one of larger groupings, with one *avârizhâne* comprising several *hânes* or *nefers*.

## **2. Complaints about the number of *avârizhânes***

The *sicils* record a number of petitions from the tax-paying population requesting a reduction in the number of *avârizhânes* assessed for a particular area. Some of these entries relate to certain types of complaints that were made directly to the central government, which, as the documents show, responded to these petitions sympathetically. As far as Kayseri *sicils* are concerned, 9 cases have so far been identified, at different times and in different places within the *liva* between 1618 and 1690. We will present here 5 cases as an example as it appear in the *sicils*.

### **Case no. 1 Request for too much tax: villagers petition the *divan* (1618)**

An imperial order recorded in the same *sicil* for Kayseri, deals with a slightly different problem of this kind. The village of Ulubürüngüz in the *kaza* of Kayseri sent a petition directly to the Imperial *divan* complaining that they were being asked to pay for more than the four *avârizhânes* at

which the village was assessed. An imperial order was sent to the *kadı* instructing him to ensure that *avâriz* collectors did not collect more than the four-*avârizhâne* amount assessed, and stating that the *divan* did not expect to receive the same complaint from this village again.<sup>10</sup>

It appears from the imperial order that the tax-paying population of this village were paying their *avâriz* taxes as 4 *avârizhânes* for the entire village, according to the *avâriz* register. It is quite possible that they had been asked for more payment many times, and therefore they had applied for an imperial order from the central government to prevent future impositions. Given the expenses of sending a man to İstanbul, it is possible that the villagers had complained to the *kadı* previously without success. The significance of this case is that it deals with a village community in a relatively remote corner of the empire, showing that the villagers knew what was legal and what was not. This case itself is also evidence that the lowest level of Ottoman society was familiar enough with the means of seeking justice. The more important point is that these villagers believed that to apply to the sultan would rectify the wrong done to them. Seeing the result as recorded in the *sicil* we could now conclude that such faith was not misplaced and they were not let down by the centre, and that villagers did not waste both their time and money on a venture that would have no chance of success.<sup>11</sup>

### **Case no.2 Over-assessment: villagers went to *divan* with a petition (1618)**

Another imperial order, dated 1027/1618, recorded in the same *sicil* deals with a similar problem without giving the number of *avârizhânes* for the village. The inhabitants of the village of Canikli in the *kaza* of Kayseri went to the imperial *divan* with a petition complaining that the *avârizhânes* assessed for them were beyond what the village could bear and requested for the reduction of one *avârizhâne* on the grounds of impoverishment. An imperial order was then sent to the *kadı* of Kayseri confirming that one *avârizhâne* would be taken away from the village, and it also urged the *kadı* to act in accordance with this change, in order to ensure that the *avâriz* collectors did not collect more money than the *avârizhânes* were assessed for. The changes in the number of *avârizhânes* was then recorded in the *mevkufat defters*, and a copy of the *defter* was given to the people of Canikli village.<sup>12</sup> Although the *divan* could not influence the *kadı* in judicial disputes, it is clear that the *divan* could ask him to make the changes in assessment on purely financial grounds. We do not know from the

information given in the document what the real *avârizhâne* figure was, or how many *avârizhânes* had been assessed for the village.

**Case no.3 Over-assessment: *kadı* petitions the *divan* on behalf of villagers (1625)**

The *kadı* of Kayseri sent a petition to the imperial *divan* complaining that the assessment of thirteen *avârizhânes* was beyond what the village of Mancusun could support and requested a reduction to 8 *avârizhânes* on the grounds of impoverishment. Although the people of the village of Mancusun used to pay their *avâriz* levy from 8 *hânes*, these people were being forced to pay the *avâriz* according to the new increased assessment as 13 *avârizhânes*. Thus, the *kadı* asked for an imperial permission (*emr-i serif*) in order to reduce the number of *avârizhânes* from 13 back to 8.<sup>13</sup>

The essence of this petition was a complaint about a recent increase in the number of *avârizhânes* assessed for the village. Upon the *kadı*'s petition the imperial *divan* looked into the *defters* held in İstanbul, and found out that Mancusun indeed used to pay the *avâriz* for 8 *hânes*, and that 5 *hânes* had been recently, added, but were not found in the previous register. Following this, an imperial order was sent to the *kadı* of Kayseri confirming the assessment at just 8 *avârizhânes*. The *kadı* also applied on behalf of the villagers for, and was given, a copy of the *avâriz defter*. With that *defter* they were given an imperial decree (*emr-i serif-i Mancusun*) as confirmation. In that imperial decree the *kadı* was also reminded that no one should ask for more money from the people of the village of Mancusun. It was strongly emphasised that the *avâriz* would be collected in accordance with the imperial order given.

**Case no.4 *Avârizhâne* reduction: *kadı* petitions the *divan* (1658)**

The people of *Huvand mahallesi* in the *kaza* of Kayseri used to pay *avâriz* levies for 4.5 *avârizhânes*, but during the course of a recent survey one *avârizhâne* had been transferred from the neighbouring *Hüseyin Fakih mahallesi* and added to the *avârizhânes* of *Huvand mahallesi*. Therefore the *kadı* of Kayseri, Mevlâna Abdullah, sent a petition to the imperial *divan* in order to explain the 'oppressive' situation for these people, and to request the reduction of 1 *avârizhâne* from *Huvand mahallesi*. In response to the *kadı*'s petition, an imperial order authorised the removal of one *avârizhâne* from *Huvand mahallesi*, and it was re-registered for *Hüseyin Fakih mahallesi*, where it had originally come from. In this imperial order, the *kadı* was also

urged not to allow anyone to undermine this new arrangement, or oppress the tax-paying population.<sup>14</sup>

### **Case no.5 *Avâriz* exemption lifted: *kadı* petitions the *divan* (1689)**

6 and 1 rub' *avârizhânes* had been assessed for *Şarkıyan mahallesi* in 1092/1682. The *kadı* of Kayseri at that time had sent a petition to the imperial *divan* in order to have the people of *Şarkıyan mahallesi* made exempt from the *avâriz* levies because of their poor economic condition.<sup>15</sup> An imperial order found in this *sicil* confirms that 6 and 1 rub' *avârizhânes* of *Şarkıyan mahallesi* were accordingly kept exempt from the *avâriz* levies for 6 years from 1092/1682 to 1099/1688 until another imperial order was sent out an order, informing the *kadı* of Kayseri that their exemption should be removed. They were then expected to pay their *avâriz* for 6 and 1 rub' *avârizhânes*. On receipt of this order, the *kadı* had sent another petition to the imperial *divan* in order to explain the economic situation of people living in *Şarkıyan mahallesi*. In his petition he mentioned that people of the *Şarkıyan mahallesi* were in a poor economic position, and they were not able to pay such levies. He added that, 'If the *avâriz* levies are collected, the people of the *mahalle* would be 'dispersed'. The imperial order that was issued in response to the *kadı*'s petition, confirmed that *Şarkıyan mahallesi* was again made exempt from the *avâriz* levies.<sup>16</sup>

### **3. Complaints about illegal tax demands upon the *reaya***

In 1055/1645 a group of six separate court cases appear in the Kayseri *sicil*, recording complaints made by the tax collector Durmuş Ali Ağa against tax-payers in the area. Durmuş Ali Ağa had been sent to the region by the central government with instructions to inspect claims to exemption from *avâriz* levies on the grounds of certain status. Durmuş Ali Ağa brought these unresolved cases before the *kadı* of Kayseri for his adjudication. We will not present here all these 6 cases but only 2 as an example as it appear in the *sicil*.

#### **Case no. 1 Durmuş Ali Ağa's complaint against Siyavuş b. Abdullah (1645)**

Siyavuş bin Abdullah, a resident in Depecik *mahallesi* in Kayseri, refused to pay the 120 *akçe* tax payment as stated on the imperial order held

in Durmuş Ali Ağa's hand. The *kadı* of Kayseri asked Siyavuş for sufficient evidence to prove that he should not pay. From Siyavuş's detailed evidence to the court, it appeared that he was registered in *Karakürkçü mahallesi avariz defteri* during the course of a survey and, therefore, he paid his share of taxes with the people in that *mahalle*. He also brought a copy of the register and presented it to the court as part of his evidence. Having examined this, and seen for himself Siyavuş b Abdullah's name on the register in *Karakürkçü mahallesi*, the *kadı* rejected Durmuş Ali Ağa's case against Siyavuş.<sup>17</sup> Although an officially appointed tax inspector such as Durmuş Ali Ağa could apply to the court where payments in dispute, as seen above, he would not necessarily win his case.

#### **Case no. 2 Durmuş Ali Ağa's complaint against Dilaver b. Abdullah (1645)**

Durmuş Ali Ağa complained about a certain Dilaver b. Abdullah in the *kaza* of Kayseri for not paying the 120 *akçe* as *rüsum* (taxes).<sup>18</sup> Dilaver b. Abdullah claimed that he had been registered in the *avâriz defter* of *Gebe İlyas mahallesi* during the course of the survey, and therefore he paid his *avâriz* with the people in that *mahalle*.

In order to clear himself from the accusation made by Dilaver b. Abdullah had to present a copy of the *avâriz defter* to the court. It appeared from this *defter* that his name was, indeed, written in that *defter* with *Gebe İlyas mahallesi*, and therefore the *kadı* decided, in the light of this evidence that there was no need for him to pay the amount of money being demanded by Durmuş Ali Ağa. The *kadı* closed the case on behalf of Dilaver b. Abdullah, and dismissed the claim against him.<sup>19</sup>

#### **4. Disputes between taxpayers over *avâriz* levies**

Eleven cases were found in the Kayseri *sicils* where a dispute arose among villagers or the inhabitants of a particular *mahalle* (town quarters) concerning the liability of certain residents to pay their contribution to *avâriz* levies in that place. Both Muslims and non-Muslims brought such disputes before the *kadı*.



**Case no.1 Dispute in the village of Çukurkişla in the kaza of Kayseri (1624/25)**

People from Çukurkişla village in the *kaza* of Kayseri namely Hacı Saban b. Mustafa, Musa, Hasan, Seferi oğlu, Hacı İsa and Hacı Ali, and others went to court and set forth a claim (*takrir-i da'va idub*) in the presence of Hacı Hasan b. Durak saying 'He is from our village although he has lived in the city for a few years. We demand taxes (*tekalif sakka* and *sair tekalif*) which he has not paid". Hacı Hasan replied that my father Durak became a resident of *Depecik mahallesi* over thirty years ago, and was registered there. Now he pays *avâriz* and other taxes to *Sultan Hamamı mahallesi*, where he is a resident. We no longer have any property in the village. My father is in the *defter-i cedit* for *Depecik mahallesi*. I have a page of the *defter* (*suret-i defter hakani*), an *emr-i serif*, and a *fetva*. Let them be examined. The plaintiffs must be restrained'.<sup>20</sup>

During the course of the trial, Hasan was asked for such proof. Osman Çelebi b. el-Hac Sahin and Hacı Burak b. Sefer testified that Durak had lived in the *Sultan Hamamı mahallesi* for over thirty years and that Hasan then lived in *Sultan Hamam mahallesi*, where he paid *avâriz* and other taxes, with the people of the *mahalle*. Hasan was born in the city. The *fetva* presents the case exactly as it was stated, and concludes that taxes cannot be required of Hasan by the villagers. The people of the village wanted Hasan to take an oath that he no longer had any property at the villages, as the *fetva* specifies, and Hasan took the oath. So, in accordance with the *fetva*, the people of the village were restrained. The following two *fetvas* here were, copied into the *sicil* as proof of the record of this case.

*Fetva*; "Zeyd's father moved from a village and lived more than thirty years in a town. Does he owe any taxes there? No. There is an *emr* that if he has no property at the former village and if he pays taxes with the people of his *mahalle*, he owes no taxes to the village. Seyyid İnyetullah."<sup>21</sup>

*Fetva*; "Zeyd lived in town for twenty years and paid taxes like the people of the *mahalle*. He renounced all property in his village. Now the people of the village have demanded taxes from him. Can this be? No. İnyetullah."<sup>22</sup>

**Case no.2 Dispute in Oduncu mahalle, kaza of Kayseri (1645)**

The *zimmis* from *Oduncu mahallesi* namely Vartan veled-i (son of) Markar, Vagya veled-i Tatir and Cafir veled-i Yuvan in the *kaza* of Kayseri

went to court and set forth a claim. Ohan veled-i Sehrik was registered in the *avâriz* and *cizye defters* of *Oduncu mahallesi* by the surveyor during the course of the new survey (*tahrir-i cedit*). He lives in our *mahalle* and has property there. We demanded *avâriz* taxes which he refused to pay.

Ohan was questioned by the *kadı* as to whether or not the accusation made was correct. He replied that he was indeed registered in the *avâriz* and *cizye defters* of *Oduncu mahallesi*, and he used to have properties in that *mahalle* for which *avâriz* payment was necessary. Having said that, however, he no longer had the property there, since he sold it to someone called Sam Hatun on 1054/1644, and he moved to live somewhere else. He was asked to provide somebody who could testify for him in court, in his favour. The court then asked Ahmed Bey b. Mustafa Bey and Mustafa Beşe b Abdullah for their testimony on the matter. They told the court that Ohan veled-i Sehrik sold his property to Sam Hatun in their presence, on the given date. He then paid the *avâriz* and other taxes where he lived. The *kadı* accepted their testimony and made his final decision, stating that, since he had no property in the mentioned *mahalle* and paid the *avâriz* taxes in another place, therefore, according to the imperial order (*ber mucceb-i emr-i şerif*) the claim made by the people of *Oduncu mahallesi* was dismissed.<sup>23</sup> Here we see that the *kadı* did not rule against the accused Ohan veled-i Sehrik without some sound and reliable evidence.

### **Case no.3 Dispute in Harput mahallesi, kaza of Kayseri (1645)**

This case deals with a dispute over the *avâriz* and *cizye* levies between the non-Muslim people in *Harput mahallesi* in the city of Kayseri.

The people from *Harput mahallesi* namely Kanber veled-i Miran, Agob veled-i Zeki and Hatar veled-i Sefer and the others in the city of Kayseri went to court and set forth a claim saying that Yuri Bali veled-i Nekfur has property in *Harput mahallesi*, and he was registered in the *avâriz* and *cizye defters* of the *mahalle* by the surveyor during the course of the survey. We demanded *avâriz* and *cizye* taxes which he refused to pay.<sup>24</sup>

Yuri Bali veled-i Nekfur was then questioned by the *kadı*, to discover whether or not the accusation that had been made was correct. He replied that he was, indeed, registered in the *avâriz* and *cizye defters* of *Harput mahallesi*. He had sold his properties to someone else and had moved to *Eslem Paşa mahallesi*. There he paid *avâriz* taxes with the people of the *mahalle*, whereas he paid his *cizye* with the people of *Harput mahallesi*, in

accordance with the *cizye defter* of the *mahalle*. To support his position, he also presented a *fetva* as evidence to the court. According to the *fetva*:

"Zeyd lives in a *mahalle* and pays the *tekalif* with the people in his *mahalle*, while he pays for his *cizye* commitment with the people of *Harput mahalle* where he used to live. Does he have to pay for his properties? No. If he pays for his properties with the people where he lives, and if he pays *cizye* taxes with the people of his former *mahalle*, he owes no taxes to the village for the properties he has in his present *mahalle*." <sup>25</sup> Considering the evidence provided to the court the final decision was to dismiss the case of the people of Harput *mahallesi's* claim.

#### **Case no.4 Dispute in the village of Süksün, kaza of Kayseri (1645)**

This case deals with another false claim over *avâriz* in the *kaza* of Kayseri.

Mustafa b. Minnet from Süksün village in the city of Kayseri went to court and set forth a claim saying that Dede b. İlyas from Süksün village in the *kaza* of Kayseri was registered in the *avâriz defter* of the village by the surveyor during the course of survey. He demanded *avâriz* taxes which Dede b. İlyas refused to pay.

The *zimmi* Dede was then questioned by the *kadı* as to whether or not Mustafa b. Minnet's claim was correct. He replied that he was registered in the *avâriz defter* of *Gebe İlyas mahallesi* in the *kaza* of Kayseri during the survey, and stated that he paid the *avâriz* with the people in that *mahalle*. Then he presented the copy of the *avâriz defter* for *Gebe İlyas mahallesi* to the court. The evidence was examined, and his name was found in the *defter*. After seeing his name on the *defter*, the *kadı* made his final decision stating that, since his name was written in the register, and he paid the *avâriz* taxes with the people of *Gebe İlyas mahallesi*, then, according to the *defter*, Mustafa b. Minnet's claim was overruled.<sup>26</sup>

#### **Case no.5 Dispute in Selaldi mahallesi, kaza of Kayseri (1645)**

This case deals with a conflict between the *zimmis* over the *avâriz* taxes. The *zimmis* from *Selaldi mahallesi* namely Sefer veled-i Kanber, Manas veled-i Yagub and Murad veled-i Migirdic in the *kaza* of Kayseri, went to court and set forth a claim. Babuk veled-i Arizman was registered in the *avâriz defters* of *Selaldi mahallesi* by the surveyor during the course of the

new survey (*tahrir-i cedit*). He lives in *Selaldi mahallesi* and has property there. We demanded *avâriz* taxes, and he refused to pay.

He was then questioned by the *kadı* as to whether or not the accusation made was correct. Babuk explained his situation in more detail, before the *kadı* declared that he was originally required to pay the taxes with the people in that *mahalle*, and had been registered in its *avâriz defter* of the *mahalle*. However, during the course of the new survey (*tahrir-i cedit*) he was omitted from (*haric-i defter olmak*) the *defter*. After that, he went to İstanbul, and explained his economic situation. As a result, he was made exempt from the *avâriz* taxes, and his name was registered in *Gebe İlyas mahallesi* as *merammetçi* (a construction worker/a repairer/ restorer of damaged or derelict buildings) on the condition that he would look after the public fountain (*çeşme*) built by *el-hac Ahmed Çelebi*. The *kadı* then asked him to prove whether or not there was any written document showing that what he had said was correct. Babuk had obtained a *fetva* from the *Seyhulislam* and gave it to the *kadı* as his evidence. After examining his documents, the people of *Selaldi mahallesi* were restrained, and that as long as Babuk remained as a *merammetçi* in *Gebe İlyas mahallesi* Sefer, Menas and Murad's claim would be overruled by the court.<sup>27</sup>

### **Conclusion**

The *sicils* are the records of Ottoman legal courts which enable us to examine all aspects of the daily life as well as the responses to the people's complaints from the ruler against any wrongs done to them by various individuals. Such complaints, relating to *avâriz* levies, that were examined during the course of this paper in these series of registers, show that the centre did uphold the concept of social justice against unlawful treatment that was undertaken by the hand of state officials or otherwise. Although an officially appointed tax inspector such as Durmuş Ali Ağa could apply to the court where payments were in dispute, as seen above, he would not necessarily win his case. As far as the *avâriz* levies in Kayseri during the 17<sup>th</sup> century are concerned, on the whole the relationship between the centre and periphery displays a very positive picture and was far from being based on compulsion by the state, but rather on the force of the law. As far as the *sicils* are concerned there is no evidence for corruption in the *avâriz* system in Kayseri during the 17<sup>th</sup> century. The important point to make is the determination displayed by ordinary people in challenging Ottoman officials at the court. The very fact that tax officials complained to the court against ordinary people but did not always win shows that the notion that the court

would automatically back the state official against ordinary people is false. In some cases however, certain people tried to avoid paying the *avâriz* impositions, by claiming false exemption status. The distinct feature of centre-periphery relations is the fact that there was the highest consideration given by the Ottoman court, as well as by the centre itself, to every humble complaint, so it would be dealt with accordingly. As far as *avâriz* levies in Kayseri are concerned, we can therefore conclude from the cases presented here that the judicial system was, on the whole, fair and capable of coping with problems so long as the complaint was made in the court.

The cases presented above show that the central government did not allow anyone to exploit the tax-paying population, either for the sake of the government's income or the individual collector's own wishes, in any possible way. The evidence of this is found in number of imperial orders addressing to the *kadis* in the *sicils* of Kayseri. The cases presented in this paper also show that the complaints ranged from the lowest level to the highest reaches of the society, from the urban areas to the villages in rural areas. Although the cases presented indicate that wrongs were done, it is clear, however, that these people fought back with such determination and apparent lack of fear, no matter what social level or ethnic group, or faith they came from. Not a single case could be found in the *sicils* used in this study, in which the central government itself had acted unjustly or tolerated injustices to its subjects.

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### Dipnotlar

- <sup>1</sup> This paper read at “*Antropology, archaeology and heritage in the Balkans and Anatolia: The Life and times of F.W Hasluck (1878-1920)*, an international conference held on 3<sup>rd</sup>-6<sup>th</sup> November 2001 at the University of Walse Lampeter, in the United Kingdom. The author would like to thank Dr. Christine Woodhead of Durham University for her encouraging comments and suggestions on various points throughout the process of this paper.
- <sup>2</sup> Cited in Halil İnalçık, *The Ottoman Empire. The Classical Age, 1300-1600*, trans. Norman Itzkovitz and Colin Imber, (London and New York. 1995), p. 65-66; cf. also "Turkish and Iranian Political Theories and Traditions in *Kutadgu Bilig*" in H. İnalçık, *The Middle East and the Balkans under the Ottoman Empire: Essays on Economy and Society*, (Indiana University Turkish Studies and Turkish Ministry of Culture Joint Series, Vol. 9, Bloomington, USA, 1993), pp. 1-18.
- <sup>3</sup> İnalçık, *The Ottoman Empire*, pp. 65-69; cf. also his "State and Ideology under Sultan Süleyman I" in his, *The Middle East and the Balkans*, pp. 70-94.
- <sup>4</sup> On the *kadı* and the *şer'iyye sicilleri* see İlber Ortaylı, "On the role of Ottoman Kadi in provincial administration", *Turkish Public Administration Annual*, 3 (1976): 1-21 [Turkish version: "Osmanlı Kadısının Taşra Yönetimindeki Rolü Üzerine", *Amme İdaresi Dergisi*, 9/1 (1976), 95-107.]; Amy Singer, "Tapu Tahrir Defterleri and kadi sicilleri: a happy marriage of sources", *Tarih*, 1(1990): 95-125; Y J Seng, "The Ser'iyye Sicilleri of the İstanbul Müftülüğü as a source for the study of everyday life", *TSAB*, 15 (1991): 307-25; Türk Dünyası Vakfı publication, *Şer'iyye Sicilleri*, (vol 2, İstanbul 1988); Suraiya Faroqhi, *Approaching Ottoman History: An introduction to the sources*, (Cambridge University Press, Cambridge, 1999): 55-57. Particularly relevant for this study are the articles by Ronald Jennings, "Loans and Credit in early 17th Century Ottoman Judicial Records: the Sharia Court Records of Anatolian Kayseri", *Journal of the Economic and Social History of the orient*, 16 (1973): 168-216; "Limitation of the Judicial powers of the Kadı in 17<sup>th</sup> century Ottoman Kayseri", *Studia Islamica*, 1 (1979): 151-184; "Kadi court and legal procedure in 17<sup>th</sup> century Ottoman Kayseri", *Studia Islamica*, XLVIII (1978): 133-172.
- <sup>5</sup> "*Kanunname*: in Ottoman usage the term generally referred to a decree of the Sultan containing legal clauses on a particular topic. In the 15<sup>th</sup> century the term *yasakname* had the same meaning, and during the Arab caliphate *kavain* had the sense of "a code of laws". In the Ottoman Empire *Kanunname* was occasionally extended to refer to regulations which viziers and pashas had enacted laws which a competent authority had formulated. However, a *kanunname* was like any normal *kanun* in that only a Sultan's decree could give its official authority. As it is known, the Ottoman *kanunnames* are the collection of statutes (*kanuns*) which were originally in most cases short summaries of firmans and other decrees of the Sultan, each dealing with a particular case, the details referring to individual persons, places, and events having been eliminated. The compilation of general *kanunnames*, i.e those valid for the whole Empire, was usually within the authority of the *Nisancı*." Quoted from İnalçık, "Kanunname" in *EF<sup>2</sup>*, pp. 562-66.
- <sup>6</sup> Linda Darling, *Revenue-Raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire 1560-1660*, (New York 1996), p. 249.
- <sup>7</sup> For a discussion on this see Sureyya Faroqhi, "Political Initiatives 'From the Bottom Up' in the Sixteenth-and Seventeenth-Century Ottoman Empire: Some Evidence for



- Their Existence,” (In *Osmanistische Studien zur Wirtschafts- und Sozialgeschichte: In Memoriam Vanco Boskow*, ed, Hans Georg Majer, Wiesbaden: Otto Harrasowitz, 1986: 24-33) in Faroqhi, *Coping with the State. Political Conflict and Crime in the Ottoman Empire, 1550-1720*, İstanbul, 1995, pp. 6-7.
- <sup>8</sup> Haim Gerber, “Shari’a Kanun and Custom in the Ottoman Law: The Court Records of 17<sup>th</sup>-Century Bursa”, *International Journal of Turkish Studies*, 2/1 (1981), p. 135-36.
- <sup>9</sup> Jennings, “Limitation of the Judicial powers of the Kadi in 17<sup>th</sup> century Ottoman Kayseri”, *Studia Islamica*, 1 (1979), p.152.
- <sup>10</sup> Mustafa Süslü, *20 Nolu Kayseri Şer’iyye Sicili, 1027/28-1618/19: Metin Transkripsiyonu ve Değerlendirme*, (Unpublished MA Thesis, Erciyes University, Kayseri, 1995), p. 249.
- <sup>11</sup> Cf. also Süleyman Demirci, "Complaints in the Ottoman *avâriz*-tax system: An aspect of the relationship between centre and periphery. A case study of the Ottoman province of Karaman, 1618-1700 (according to *şer’iyye sicilleri*)", *Paper delivered at the BRISMES annual conference, 15<sup>th</sup>-18<sup>th</sup> July 2001: The view from the top: State and People in the Middle East*, The University of Edinburgh, (Edinburgh, 2001).
- <sup>12</sup> Süslü, *20 Nolu Kayseri Şer’iyye Sicili*, p.259.
- <sup>13</sup> Ahmet Gündüz, *27 Numaralı Kayseri Şer’iyye Sicili H.1035/36-M.1625/26, Metin Transkripsiyonu ve Değerlendirme*, Unpublished MA Thesis, (Erciyes University, Institute of Social Sciences, Kayseri, 1995), pp. 850-851.
- <sup>14</sup> M. Ali Kalıpcıoğlu, *65 Numaralı Kayseri Şer’iyye Sicili H.1067/68-M.1656/58, Metin Transkripsiyonu ve Değerlendirme*, Unpublished MA Thesis, (Erciyes University, Institute of Social Sciences, Kayseri, 1996), p. 320-321.
- <sup>15</sup> Kayseri received a considerable number of migrants from the war-torn provinces of eastern Anatolia at the end of the sixteenth century due to frequent warfare on the Iranian front and the *Celâli* terror in Anadolu which constituted the reason for the continuing immigration. The 'easterners' had given their name to a new quarter of town as *şarkıyan mahallesi*. See Sureyya Faroqhi, *Men of modest substance: House owners and house property in seventeenth-century Ankara and Kayseri*, (Cambridge University Press, Cambridge, 1987), pp. 43-47.
- <sup>16</sup> Ayşe Türkmen, *96 Numaralı Kayseri Şer’iyye Sicili H.1099/1100-M.1687/89, Metin Transkripsiyonu ve Değerlendirme*, Unpublished MA Thesis, (Erciyes University, Institute of Social Sciences, Kayseri, 1998), p.52, 138 and 139.
- <sup>17</sup> Mukaddes Yılmaz, *55 Numaralı Kayseri Şer’iyye Sicili H.1055/M.1645, Metin Transkripsiyonu ve Değerlendirme*, Unpublished MA Thesis, (Erciyes University, Institute of Social Sciences, Kayseri, 1998), p. 182.
- <sup>18</sup> The documents do not specify which taxes are meant by *rüşum*. As the defendant bases his successful evidence on an *avâriz* register, it is assumed that some part, if not all, of this *rüşum* includes *avâriz* and *nüzul* payments. However, this remains to be proven.
- <sup>19</sup> Yılmaz, *55 Numaralı Kayseri Şer’iyye Sicili*, p. 193.
- <sup>20</sup> Selahattin Doğuş, *25 Numaralı Kayseri Şer’iyye Sicili, 1036-1624/25: Metin Transkripsiyonu ve Değerlendirme*, (Unpublished MA Thesis, Erciyes University, Kayseri, 1996), p.114.
- <sup>21</sup> Also quoted in Jennings, "Limitation of the judicial powers of the *kadı*.", p. 170; cf. *Kayseri Şer’iyye Sicili no. 27*, p. 230-2.
- <sup>22</sup> Jennings, "Limitation of the judicial powers of the *kadı*.", p. 171; cf. *Kayseri Şer’iyye Sicili (1034) no. 25*, p. 147-3.

- <sup>23</sup> Yılmaz, *55 Numaralı Kayseri Şer'iyye Sicili*, p. 112-113.  
<sup>24</sup> Yılmaz, *55 Numaralı Kayseri Şer'iyye Sicili*, p. 182-183.  
<sup>25</sup> Yılmaz, *55 Numaralı Kayseri Şer'iyye Sicili*, p. 182-183.  
<sup>26</sup> Yılmaz, *55 Numaralı Kayseri Şer'iyye Sicili*, p. 207.  
<sup>27</sup> Meryem Ünal; *67 Numaralı Kayseri Şer'iyye Sicili (1068/1658), Metin Transkripsiyonu ve Değerlendirme*, (Unpublished BA Dissertation, Erciyes University, Kayseri, 1996), p.16; cf. Murat Tan, *66 Numaralı Kayseri Şer'iyye Sicili H.1067/68-M.1656/57, Metin Transkripsiyonu ve Değerlendirme*, Unpublished MA Thesis, (Erciyes University, Institute of Social Sciencess, Kayseri, 1998), p. 164.