

RESEARCH ARTICLE

# The Status of Samaritans in Sixteenth-Century Ottoman Damascus

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## Abstract

In this article, we explore the status of Samaritans in early modern Ottoman Damascus through a focus on a particular *firman*—a sultanic legal decree. The firman orders that Samaritans—a religious group that traces its origins to ancient Israel but differs from Jews in several aspects—are not to be employed as clerks by Ottoman authorities. We argue that the firman indicates Ottoman officials engaged in religious status management despite the lack of legal terminology for *minority* in the document. The significance of the firman regarding conceptualizing status, we suggest, is that it points to an alternative model of minoritization that is not based in modern European legal approaches to religious minority status and law but which accounts for people’s experiences of minority status before modernity.

**Keywords:** religious minority; Ottoman law; Samaritans; minoritization; early modern Ottoman Damascus

## Introduction

Specialist literature on minority status and religion is dominated by legal theory. In particular, scholars debate statutory law and its limits and the policy implications of variant approaches, especially within international development and law. Commonly, discussion around minority status (and its protection or otherwise) means discussion in terms of recognized law concerning human rights. The discourse of human rights, relatively recently constructed as specialists recognize it to be, has so far provided a modern *terminus post quem* before which conversations about minority status tend not to go.<sup>1</sup> That might be the late eighteenth century, as Lynn Hunt has argued.<sup>2</sup> It might be the 1948 Universal Declaration of Human Rights.<sup>3</sup> Most often, the seventeenth century is understood as a generative moment;

<sup>1</sup> See, for example, the contributions in Paul S. Rowe, ed., *Routledge Handbook of Minorities in the Middle East* (London: Routledge, 2018), which provide an extensive overview of various minority communities but focus almost exclusively on post-nineteenth-century politics and categories.

<sup>2</sup> Lynn Hunt, *Inventing Human Rights: A History* (New York: Norton, 2007), 17–18; Micheline Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Oakland: University of California Press, 2008), 65.

<sup>3</sup> See, for example, Peter Danchin et al., “Politics of Religious Freedom: Case Studies,” *Maryland Journal of International Law* 29, no. 1 (2014): 293–304, at 293.



a moment at which the development of normative citizen- and state-based rights began.<sup>4</sup> When scholars do not focus on legal theory, they still emphasize the formation of states ordered by, as Saba Mahmood identifies it, the “legal and political elaboration of the public-private divide.”<sup>5</sup> When human rights are not the deciding chronological marker, colonialism is. As multiple contemporary discussants understand it, modern minorities are an afterimage of specific legal issuances under colonial regimes.

But modern laws concerning minority religious identities did not spring out of a hole in the ground. Demographic minorities existed before and beyond the reach of European legal entities. Piecing together the details of the status of religious minorities before minority status (in the sense of recognized international law) can provide comparative and contrastive examples to better explain what is distinctive about the way minorities are understood in the present.

In what follows, we suggest that existing approaches to religious minority status and law, fruitful as they are, need to pay more attention to the legal anthropology of what came before the buffer moments when legal identity (as we recognize it now in a court of law, be it European or American) emerged—that is, to account for people’s experiences of minority status before modernity. We suggest that these details be considered as more than a footnote to the emergence of law concerning minority status. They are a part of the contiguous history of minoritized people’s experience of legal constraint and process, and of direct conceptual and historical relevance for constructing a lengthier—and more adequate—understanding of the entanglement of law, religion, and minoritization.

The Ottoman Empire—in its geographical proximity to Europe but conceptual, political, and historical distinction from it—presents a particularly illustrative point of comparison.<sup>6</sup> As Ussama Makdisi writes in his monograph on sectarian status in the Middle East, “Ottoman imperial rule distributed privileges across communities in the empire at the same time that it celebrated Muslim primacy over non-Muslims, and Ottoman supremacy over non-Ottomans.”<sup>7</sup>

As a test case for our approach, we present an Ottoman Turkish *firman* (sultanic legal decree) dated November 5, 1565 CE, regarding Samaritans.<sup>8</sup> In using a single document for a study, we make no pretense at comprehensiveness, so much as we offer a thoughtful reflection on the categories by which modern scholars tackle premodern material. We propose that religious status management, defined as the social and legal processes by which status is assigned and maintained, was present in Ottoman legal thought and practice before the nineteenth century and evident in this *firman* despite the absence of any legal

<sup>4</sup> Patrick Thornberry, “Historical Background: International Law Moves from Protection of Particular Groups to Norms of a Universal Character,” in *International Law and the Rights of Minorities* (Oxford: Clarendon Press, 1991), 25–37. Those who recognize the general applicability of *human rights* to premodern societies nonetheless take the individual rights discourse of seventeenth- and eighteenth-century Europe as a decisive moment; see, for example, Jack Donnelly, “The Relative Universality of Human Rights,” *Human Rights Quarterly* 29, no. 2 (2007): 281–306, at 285–86.

<sup>5</sup> Saba Mahmood, *Religious Difference in a Secular Age: A Minority Report* (Princeton: Princeton University Press, 2016), 12.

<sup>6</sup> For a recent history of the Ottoman Empire, see Douglas A. Howard, *A History of the Ottoman Empire* (Cambridge: Cambridge University Press, 2017). The following two studies helpfully situate the Ottoman Empire within Mediterranean networks: Daniel Goffman, *The Ottoman Empire and Early Modern Europe* (Cambridge: Cambridge University Press, 2003); Suraiya Faroqhi, *The Ottoman Empire and the World around It* (London: Tauris, 2004).

<sup>7</sup> Ussama Makdisi, *Age of Coexistence: The Ecumenical Frame and the Making of the Modern Arab World* (Oakland: University of California Press, 2019), 19.

<sup>8</sup> We use Uriel Heyd, document 114\*, in *Ottoman Documents on Palestine 1552–1615: A Study of the Firman according to the Mühimme Defteri* (Oxford: Clarendon Press, 1960), 172 (translation), plate 16 (an image of the *firman* document). Per Heyd, the shelf mark for the document is vol. 5, no. 470, in the *Umür-i Mühimme Defteri*.

terminology for *minority* per se. The interaction of this firman with status foreshadows—and complicates—the later emergence of laws about minority status. As we will demonstrate, the evidence in the firman suggests an alternative model of minoritization altogether.

In her analysis of Muslim minoritization in British India (after 1857 in particular), Ilyse Morgenstein Fuerst writes that “minoritization refers not to a demographic reality, but rather to the systematic process by which a ruling elite denies one group access to power through local, national, or ... imperial politics.”<sup>9</sup> Similarly, in her study of Ottoman and Turkish state violence against Armenians, Fatma Müge Göçek defines majority/minority “sociologically in terms of how much each social group controls the resources that are considered valuable by a particular society.”<sup>10</sup> On this account, minoritization results from a polarity of empowered state (or elite) and minority. Here, Morgenstein Fuerst and Göçek lean toward a model of minoritization whereby what defines a minority is access or lack thereof to the resources valued within a given society.<sup>11</sup> In this firman, by contrast, although one party is certainly marginalized, the complex interplay between state officials and Samaritans points to an alternative way to conceive minoritization in addition to either basic demographics or asymmetry of power. The contradictions active in the exercise of power must have a place in the discussion of minoritization, even as they add explanatory tension to the clarity with which we can discern and identify relevant actors. Moreover, the pliability of local life and the so-called minority experience serves not only as the ground for resistance (or opposition) to empire, but a collaborative enabler for state hierarchies. In fact, there is no determinate relationship between minoritization and lack of power.

With this argument, we contribute to an ongoing investigation of minority groups within Ottoman studies, in particular. For scholars of the Ottoman Empire, as one scholar pointed out in a review of Molly Greene’s 2005 edited volume, the emphasis has often fallen on sectarian (non-Muslim) versus nonsectarian (Muslim) interactions.<sup>12</sup> Despite evidence to the contrary, scholars have continued to base their approach on the idea that Ottoman law sectioned populations in line with Muslim heresiography—that is, into a religious grid. But this assumes that the primary Ottoman legal category was religious, often on the assumption that a premodern Islamicate empire must have functioned that way, shifting away from religious categorization only in the nineteenth century with so-called Westernizing reforms and the twentieth century with the foundation of a secular state. The firman demonstrates a granularity in its approach to Samaritan difference that resists the teleology of religious to secular; the interaction of sultanic law with local circumstances does not reduce to or rely on what this scholarship might call *sectarian difference*.

<sup>9</sup> Ilyse R. Morgenstein Fuerst, *Indian Muslim Minorities and the 1857 Rebellion: Religion, Rebels, and Jihad* (London: Tauris), 50.

<sup>10</sup> Fatma Müge Göçek, *Denial of Violence: Ottoman Past, Turkish Present, and Collective Violence against the Armenians, 1789–2009* (Oxford: Oxford University Press, 2015), 557n25.

<sup>11</sup> Fuerst, *Indian Muslim Minorities*, 4. For another entry point into the relevant literature, see Timothy Laurie and Rimi Khan, “The Concept of Minority for the Study of Culture,” in “CSAA: Minor Culture,” special issue, *Continuum* 31, no. 1 (2017): 1–12, along with the other articles in this special issue. See also Ilyse R. Morgenstein Fuerst, “Minoritization, Racialization, and Islam in Asia,” in *Routledge Handbook on Islam in Asia*, ed. Chiara Formichi (London: Routledge, 2022), 16–28, 28–30. Sometimes this preference for conceptualization in terms of power over demography is represented as a matter of older versus more recent scholarship, but the debate goes back a long way. See, for example, a preference for demography in Hans van Amersfoort, “‘Minority’ as a Sociological Concept,” *Ethnic and Racial Studies* 1, no. 2 (1978): 218–33. See a preference for power in R. A. Schermerhorn, “Power as a Primary Concept in the Study of Minorities,” *Social Forces* 35, no. 1 (1956): 53–56. For an outline of the conceptual issues at stake in definition, see E. K. Francis “Minority Groups—A Revision of Concepts,” *British Journal of Sociology* 2, no. 3 (1951): 219–29, 254.

<sup>12</sup> Isa Blumi, review of *Minorities in the Ottoman Empire*, edited by Molly Greene, *Arab Studies Journal* 13–14, no. 2–1 (2005–2006): 157–59.

More broadly, we offer an expansion to the reevaluation of the functions of empire ongoing in multiple cognate disciplines, a discussion in which the terminology of minority status plays a vital part. Ultimately, we suggest that an approach to religious status benefits from considering the mechanisms of classification parallel or prior to those categories within a Eurocentric history of status—and from the current direction of scholarship, which almost universally theorizes empire as tacitly European empire. Taking a position on minority status that tracks through European and colonial law alone or that focuses on the codified law of modern (European) states renders an explanation of the experience of minoritization that has to float in an undifferentiated soup of premodernity—a premodernity that has continually to function largely as the foil for whatever ethical position the scholar of modernity wants to advocate. There is more in premodernity than there is in the prehistory of things to do with Europe. Examples of minority status like that in the firman we studied provide a significant opportunity to better understand religious status in (codified) law by better understanding status beyond (codified) law, and to give ourselves more options to thinking through how power gradates in processes of minoritization in general.

### The Firman and the Samaritans

A firman is a decree or an edict issued by a sovereign. Firmans were issued in the Ottoman and Mughal empires and in the Deccan. In terms of organization and appearance, Ottoman firmans bear the seal of the sultan and contain epithets reserved for the sultan that glorify him and highlight his absolute power as a sovereign and a legislator. In terms of their topics, firmans deal with numerous issues: the launch of a military campaign, taxes and their collection, and various administrative practices brought up at the state council (*divan*). Importantly, the firmans sum up discussions that took place between the sultan and local bureaucrats, such as district governors (*sancak beyi*) and judges (*kadi*). They could also be issued at the behest of an Ottoman prince (*şehzade*).<sup>13</sup> For the purposes of the historian and scholar, also, these documents are invaluable. As Uriel Heyd outlines in his important 1960 study, copies of these decrees exist in an official collection spanning the sixteenth to the nineteenth century and containing more than one hundred and fifty thousand documents: the *Umūr-i Mühimme Defteri*, or “Register of Public Affairs.”<sup>14</sup>

Importantly, as part of Ottoman dynastic law (*kanun*), firmans filled the gap between laws covered by Islamic law (the *shari‘a*) and the legal realities of the absolute empire. The reasons for this are twofold and predate the Ottoman polity. First, the Qur‘ān itself contains very limited legal content—some five hundred out of over six thousand verses. Second and relatedly, actual legal practice in Islamicate societies differed from that modeled by classical texts of Muslim jurisprudence. The concept of *siyāsa shar‘iyya*—the power of the sultan to adjudicate on issues and inflict punishments beyond those stipulated in Islamic law in the interest of maintaining public order—helps explain this dynamic: “The public law doctrine of *siyāsa shar‘iyya* recognised that in the domain of public, and particularly criminal, law political interests necessitated additional jurisdictions supplementary to that of the *Shari‘a* courts; while in the field of civil transactions force inherent in Islamic society had brought about considerable modifications of the strict classical doctrine.”<sup>15</sup> Indeed, as Wael Hallaq notes, the very term *shar‘iyya* stresses

<sup>13</sup> See Mübahat S. Kütükoğlu, s.v. “Ferman,” *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* [Turkish Diyanet Foundation’s encyclopedia of Islam], accessed October 19, 2023, <https://islamansiklopedisi.org.tr/ferman> (in Turkish).

<sup>14</sup> Heyd, *Ottoman Documents on Palestine*, xv.

<sup>15</sup> Noel J. Coulson, *History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 147–48.

that sovereign legal power was not only permitted by Islamic legal theory and practice but expressly endorsed by it.<sup>16</sup>

In the case of the Ottoman Empire, several other factors account for its multi-focal legal system. At the time of its largest territorial expansion in the sixteenth century, the Ottoman polity was a multilingual, multi-ethnic, and confessionally diverse space with its concomitant legal pluralism. What gave unity to Ottoman legal practice amid this legal pluralism was (1) the authority of the Sultan who was in charge of appointing anyone who exercised legal power, and (2) the network of Muslim courts that residents of all confessional backgrounds could use.<sup>17</sup>

Historians who study the Ottoman Empire have disagreed on the goals of *kanun* in general, and the place of firmans in it. On the one hand, *kanun* has been described as “Sultanic law,” which, although granting absolute legislative power to the sultan, was a system that encompassed areas of law that lay beyond the scope of the shari‘a, while simultaneously showing Ottoman rulers’ regard for established local customs in the newly conquered territories.<sup>18</sup> On the other hand, many of the *kanun* laws not only had no basis in the shari‘a, but in some cases, ran contrary to it.<sup>19</sup>

In theory, *kanun* was not explicitly meant to replace, but supplement the shari‘a. In practice, however, as a system of (sometimes) codified law enforceable by Ottoman judges, it emerged as an alternative to the shari‘a—an alternative which provided the sultan and his viziers with uncurbed executive powers.<sup>20</sup> The reign of Süleyman I (r. 1520–1566), popularly known as the Magnificent, is noteworthy for a number of reasons, one of which is the codification of Ottoman *kanun* law, from which the Sultan derived his other epithet, Kanuni (The Lawgiver).

This specific *firman*, dated in the *Mühimme Defteri* to October 10, 1565, reflects the engagement of Ottoman officials in Damascus with a community whose presence in the region reached back to antiquity. The Samaritans, like Jews, trace their ethnic lineage and religious practice to ancient Israel.<sup>21</sup> Like Jews, they observe the Laws of Moses, and treat the Torah, the first five books of the Hebrew Bible, as authoritative scripture. They differ from Jews, however, in two major ways. First, they acknowledge no other prophets beyond those of Moses. Second, rather than Jerusalem, they argue that the central site for worship of the God of Israel is Mount Garizim, some forty miles to the north.

Samaritan communities lived in Syria and Palestine, the region over which the Damascus officials held authority long before anyone ever heard of the Ottomans, as discrete communities witnessed by Hellenistic-period epigraphy and papyri, by Greek and Roman writers, by the first-century Jewish historian Josephus, by the New Testament, and by a wide array of textual and material evidence in Coptic, Syriac, Greek, Latin, Hebrew, Aramaic, and Arabic from late antiquity and the Middle Ages.<sup>22</sup> Islamicate Damascus in particular

<sup>16</sup> Wael Hallaq, *Shari‘a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 200.

<sup>17</sup> Colin Imber, *Ebu’s-su‘ud: The Islamic Legal Tradition* (Stanford: Stanford University Press, 1997), 6.

<sup>18</sup> Hallaq, *Shari‘a*, 214–15.

<sup>19</sup> Imber, *Ebu’s-su‘ud*, 6–12.

<sup>20</sup> Lord Kinross, *The Ottoman Centuries: The Rise and Fall of the Turkish Empire* (New York: HarperCollins, 1977), 142. “[A]s the Empire grew in scope and complexity, it became necessary to supplement the Koranic with state law, extending its provisions and adapting them to changing temporal conditions.” Kinross, *The Ottoman Centuries*, 142. See also Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994), 60–64.

<sup>21</sup> For Samaritans, see Reinhard Pummer, *The Samaritans: A Profile* (Grand Rapids: Eerdmans, 2016).

<sup>22</sup> Pummer, *The Samaritans: A Profile*, 128–49. Historically, Samaritans were also in Sicily, Italy, Greece, Turkey, and Egypt; by the sixteenth century, evidence is largely limited to Egypt and the Levant. For an overview of recent work on Samaritan Israelites in antiquity, see Matthew Chalmers, “Samaritans, Biblical Studies, and Ancient Judaism: Recent Trends,” *Currents in Biblical Research* 20, no. 1 (2021): 28–64.

served as the site of a Samaritan literary flourishing.<sup>23</sup> The oldest Samaritan Torah scrolls, perhaps unsurprisingly, come from the pens of Damascene Samaritan scribes.<sup>24</sup> At least one scholar is known to have welcomed Muslims, Jews, Christians, and Samaritans to their study house.<sup>25</sup> During the final years of Mamluk rule, moreover, we know that Samaritans served in a clerical role to officials.<sup>26</sup> It is perhaps not surprising, then, to find Ottoman officials also tangled with local Samaritans in Damascus after the Ottomans captured Syria in 1516 by defeating the Mamluks in the Battle of Marj Dābiq.

There are a number of notable elements in the firman, the full text of which reads as follows:

[the fair copy] has been written  
Given to ... Agha (?), who is administrator of the imperial imaret, on 15 Rebi I 973 (10 Oct 1565)

Order to the Beglerbeg of Damascus and the Cadi of Damascus:

You who are the Cadi have sent a letter and have reported that, since the [members of the] community known as Samaritans (Sāmiri) who belong to the Jews [can] write Arabic and know the *siyakat* [script] and the ways of [keeping official] registers, the intendants (*emīn*) and su-bašis engage [them] as their clerks. As they (the Samaritans) are a wicked and mischievous group of people, they practise [various] kinds of tricks and deceit on the Muslims and are the cause of their (the Muslims') property being taken away without any reason. For fear of them the poor subjects (*re āyā*) and fellahin render service to the aforesaid. [In your opinion] it is necessary to prevent them (the officials) [from employing them].

Now, My noble consent is not [given] to a single individual of the said community henceforth coming into the service of intendants and su-bašis and being taken [along] with [them] and allowed to travel about in their service.

I have commanded that when [this firman] arrives you shall duly issue orders in this matter so that henceforth neither the intendants and tax-collectors ('*ummāl*) nor the su-bašis of a beglerbeg or begs and other commissioners (*mūbašir*) shall employ anyone of the Samaritans in clerical work or other functions connected with the affairs of the Muslims. Thus, if in future it is learnt that a single individual of that community is employed in that way in your province, your excuse will not be accepted and you will be

<sup>23</sup> In line with the wider regional proliferation of reading material, as argued by Konrad Hirschler, *The Written Word in the Medieval Arabic Lands* (Edinburgh: Edinburgh University Press, 2011); for a historical approach, see Konrad Hirschler, *Medieval Damascus: Plurality and Diversity in an Arabic Library, The Ashrafiya Library Catalogue* (Edinburgh: Edinburgh University Press, 2016).

<sup>24</sup> For Samaritan scribes and manuscripts, the authoritative work is Alan D. Crown, *Samaritan Scribes and Manuscripts* (Tübingen: Mohr Siebeck, 2001); on Damascus as a hub, see Michael Chamberlain, *Knowledge and Social Practice in Medieval Damascus, 1190–1350* (Cambridge: Cambridge University Press, 1994). The Samaritan community in Cairo, especially in the fifteenth century, also produced a number of Torah scrolls; see Reinhard Pummer, "The Samaritans in Egypt," in *Études sémitiques et samaritaines offertes à Jean Margin*, ed. Christian-Bernard Amphoux, Albert Frey, and Ursula Schattner-Rieser (Lausanne: Éditions du Zèbre, 1998), 213–32.

<sup>25</sup> Chamberlain, *Knowledge and Social Practice in Medieval Damascus*, 85.

<sup>26</sup> Muhammad Adnan Salamah Bakhit, "The Ottoman Province of Damascus in the Sixteenth Century" (PhD diss., University of London, 1972), 59. There are a number of key comparisons between Coptic Christians and Samaritans, and the propensity for serving in roles of administrative importance is one of them: see for comment and bibliography Mahmood, *Religious Difference in a Secular Age*, 38.



[held] responsible. Accordingly you shall not let a minute pass [before] executing My order. You shall write [down] and report, by name, those who do not obey. Some time ago a noble firman was already sent to you in this matter.<sup>27</sup>

The bureaucratic dynamic visible in this firman is fascinating. On the one hand, the Ottoman Muslim judge of Damascus, the *kadi*, reports that officials in the local administration have made use of Samaritan clerks, and that the latter receive “service” from locals who recognize they wield relative influence in matters of property ownership. On the other, the tone of the sultanic response signals that something more complicated was underway in Damascus. The response forbids, in absolute terms, the employment of Samaritans in clerical and related work—but also threatens the *kadi* with the potential consequences should the order not be observed. This is not a simple confirmation of the *kadi*’s request, but a sultanic ultimatum. Moreover, the reference to a previous ineffective firman in the final sentence marks this as an ongoing issue, unsolved before October 1565 and—as we discuss below—unsolved afterward as well.

In the firman, the nature of Samaritan involvement is defined by particular skills in the management methods of Ottoman administration: their ability to read Arabic and write in the *siyâkat* code or script, a type of writing that originated under the Abbasids, the Seljuks, and eventually, the Ottomans and which was used for record-keeping (*defter usulleri*) (including tax records) that required an extra level of secrecy.<sup>28</sup> A key feature of *siyâkat* is that every number corresponds to a symbol based on modified Arabic orthography.

Second, the sultan’s response in the firman is amplified: the *kadi* requests a specific proscription against employing Samaritans as clerks, and the firman issues a broader prohibition against their employment in anything having to do with the affairs of Muslims.

Third, the firman responds to only part of the *kadi*’s concern: the “fear” of the Samaritans on the part of the peasants (the *re ‘âyâ* and the fellahin), many of whom would have been non-Muslim, goes unanswered. The Samaritans are described as being “evil”/“sinful” (*şerîr*) and “wicked”/“corrupted” (*fâsîd*), whose ability to cause the seizure of Muslims’ land forces peasants to perform various types of service or work (*hizmet*) for them.

We find here confirmation of the now established arguments of Benjamin Braude with respect to the flexibility of the administration vis-à-vis specific communities.<sup>29</sup> While earlier Ottoman administrations did not maintain a formal *millet* system (in which non-Muslim groups were allowed substantial internal self-regulation, largely a nineteenth-century development), they did attempt to regulate how far minorities such as Samaritans held positions of influence over Muslim affairs.<sup>30</sup> We also see that those attempts took for granted

<sup>27</sup> Heyd, *Ottoman Documents on Palestine*, 172–73. Heyd’s interpolations.

<sup>28</sup> Muhittin Serin, s.v. “Siyâkat,” *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* [Turkish Diyanet Foundation’s encyclopedia of Islam], accessed October 19, 2023, <https://islamansiklopedisi.org.tr/siyakat> (in Turkish).

<sup>29</sup> Benjamin Braude, “Foundation Myths of the Millet System,” in *Christians and Jews in the Ottoman Empire*, ed. Benjamin Braude and Bernard Lewis, 2 vols. (New York: Holmes and Meier, 1982), 69–88; Kevork Bardakjian, “The Rise of the Armenian Patriarchate of Constantinople,” in Braude and Lewis, *Christians and Jews in the Ottoman Empire*, 89–100. See also Hans Georg Majer, “The Functioning of a Multi-ethnic and Multi-religious State: The Ottoman Empire,” *European Review* 5, no. 3 (1997): 257–65.

<sup>30</sup> Official documents did use the term *millet* in early modernity, but more as an occasional reference to ethnic, micro-ethnic, and pseudo-ethnic communities. Vjeran Kursar, “Non-Muslim Communal Divisions and Identities in the Early Modern Balkans and the Millet System Theory,” in *Power and Influence in South-Eastern Europe*, ed. Maria Baramova et al. (Berlin: LIT Verlag, 2013), 97–108. When referred to as a “non-Muslim religious community,” although the term *millet* appears in documents before the Tanzimat, its use is not sufficiently universal to indicate a systematic presence in the Ottoman legal lexicon. See M. O. H. Ursinus, s.v. “Millet,” in *Encyclopaedia of Islam*, ed. Peri Bearman et al., 2nd ed., accessed March 26, 2023, [http://doi.org/10.1163/1573-3912\\_islam\\_COM\\_0741](http://doi.org/10.1163/1573-3912_islam_COM_0741).

the prior existence of such non-Muslim influence, and that such influence proved resistant to attempts at expurgation.

Non-Muslims in Islamicate empires would have borne the *dhimmi* designation, referring to the contract between the Muslim community as conquerors and members of other religions in conquered territories according to which the former offer protection to the latter in exchange for their acceptance of Muslim rule. Central to this contractual relationship is a *dhimmi*'s payment of the *jizya* tax—a term that can be traced to the Qur'an 9:29—a type of tribute.<sup>31</sup> As Claude Cahen argues, however, despite all the restrictions to which the *dhimmi* populations would have theoretically been subjected—including, for example, on their dress, mounts, and construction of religious buildings—except in the Maghrib under the Almoravids, there were typically no limitations to them serving in administrative positions.<sup>32</sup> We observe this in the firman about the Samaritan clerks. Despite their theoretical status as subjugated *dhimmi* community, they appear to have had access to resources—formally and informally—through their clerical office.

Overall, sixteenth-century Ottoman policy, especially when dealing with taxation, appears to make much greater use of local authority and inherited structures of governance than abstracted bureaucracy, even fifty years after the transfer of Damascus and Syria to Ottoman control. In other words, it continually drew on local communities more so than it looked to incorporate them into statehood; it acknowledged their considerable local status in addition to an attempt to classify and restrict their minoritized religious status. This would shift in the 1620s, when the high-profile flight of the al-Danfi family to Nablus from Damascus signaled the effective end of the Samaritan presence in the city. But for almost one hundred years of Ottoman rule, the Samaritans seem to have retained some degree of clerical influence.<sup>33</sup>

### Interpretation and Significance

The 1565 firman provides an opportunity to reflect on minority status construction from a fresh perspective: How does it present Samaritans as a minority? What does that presentation suggest about what minoritization signified in this mid-sixteenth-century Ottoman context?

By a *fresh perspective*, we mean that offered through the scholarship on religious minorities and law, which has two interconnected characteristics: it focuses on codified law and it remains, consequently, relentlessly modern. While scholars might sometimes talk about religious minorities in a premodern context, discussion of minority status overwhelmingly focuses *either* on the codified legal regimes of Europe and America *or* colonial and post-colonial legal practices. To some extent, this is the consequence of a felt urgency to contextualize minoritization, multiculturalism, and globalization, perceived to be exclusively modern, Euro-American characteristics, and to articulate the link between minority rights and human rights.

The dual focus on codified modernity has obvious ethical significance. But it also has locked scholarship on religious minorities into a model of minoritization that focuses plainly on minorities as victims of an asymmetry of power, especially power articulated via bureaucratic oversight of minority populations by such mechanisms as identification cards. This is a valid concern. But it mistakes *one function* of minoritization—the disproportionate

<sup>31</sup> Claude Cahen, Halil İnalçık, and P. Hardy, s.v. "Djizya," in *Encyclopaedia of Islam*, ed. Peri Bearman et al., 2nd ed., accessed March 29, 2023, [http://doi.org/10.1163/1573-3912\\_islam\\_COM\\_0192](http://doi.org/10.1163/1573-3912_islam_COM_0192).

<sup>32</sup> Claude Cahen, s.v. "Dhimma," in Bearman et al., *Encyclopaedia of Islam*, accessed March 26, 2023, [http://doi.org/10.1163/1573-3912\\_islam\\_SIM\\_1823](http://doi.org/10.1163/1573-3912_islam_SIM_1823).

<sup>33</sup> Pummer, *The Samaritans: A Profile*, 155–63.



distribution of power and consequent effects on autonomy—for a *sufficient definition* of minority status. It also risks implying that the only minorities important for understanding how minority status works are those of recent memory, which would set evident (and largely arbitrary) limitations on the use of historical examples in scholarly study. Scholars have come to assume a link between minoritization and powerlessness because of the (more limited) set of cases which they consider as relevant. We suggest that the exact relationship between minoritization and lack of power is not as simple as it seems.

Understanding this firman suggests we may need to upend—or at least complicate—how we think of minoritization both in terms of its *sources* and its *practice*. Obviously, the text itself does not have a category of *minority* the way that we might expect in contemporary law, but the dynamics of minoritization are present nonetheless. The firman considers the Samaritans as a group in need of legal regulation, and as a group whose continued activities stand in significant tension with the interests of the Muslim inhabitants of the region.

In terms of sources, the way the firman defines Samaritans as Jews points to the legacy of Muslim heresiography that pays little attention to Samaritan insider classification.<sup>34</sup> For centuries, Muslim heresiography divided Jewish sects (*firaq*) into three: “Rabban, Qarran, and Samira.”<sup>35</sup> But as is known from Samaritan writings of the sixteenth century, the group maintained its own firm distinction from those it viewed as errant Hebrews—namely, the Jews.<sup>36</sup> In a letter written by the community of Samaritans in Egypt to the European antiquarian Joseph Justus Scaliger (1540–1609) in 998 AH/1589–90 CE, a representative of the group lays it out in no uncertain terms: “As for our communities and our judgements ... our community and judgements are similar to the communities and judgements of the Jews. But the scriptures of the Jews are the scriptures of Ezra, eternally cursed.”<sup>37</sup> This Samaritan document, written in response to a series of queries by Scaliger, compares their community to the Jews—but nevertheless identifies themselves as distinct.

Crucially, however, this means that the firman thereby relies on an inherited inter-minority polemic to make its point. In order to deal with the question of whether to categorize Samaritans as *ahl al-dhimma*, “people of the book,” and thus subject to the *dhimma* contract via collecting the *jizya* tax, or simply as non-Muslims, Muslims had for centuries developed their heresiography of Samaritans built on Karaite polemics. Karaites are Jews who understand the written Torah as the ultimate authoritative source for halakhah. Between the tenth and twelfth century, they developed a polemical literature to distinguish themselves from the other Israel-facing groups of interest to Muslim rulers. These groups included rabbinical Jews; their more numerous interlocutors; and Samaritan Israelites, whose similar adherence to the Torah alone made them an uncomfortably close point of comparison. These Karaite treatises themselves often leaned on the characterizations of Samaritans in Christian writings of late antiquity.<sup>38</sup> The long-standing identification of Samaritans as Jews for the purposes of administering and collecting *jizya* was thus

<sup>34</sup> See further Steven M. Wasserstrom, “Species of Misbelief: A History of Muslim Heresiography of the Jews” (PhD diss., University of Toronto, 1986), 42, 45, 47, 50–51, 91, 116, 134, 141–42, 158, 162, 168, 183, 203, 207, 223–25, 228–231, 236–40, 243, 245–46, 264, 269, 282, 284–85, 287–89. Research in this area is badly needed.

<sup>35</sup> Steven Wasserstrom, *Between Muslim and Jew: The Problem of Symbiosis under Early Islam* (Princeton: Princeton University Press, 1995), 159–60; see also Marina Rustow, *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate* (Ithaca: Cornell University Press, 2008), 94.

<sup>36</sup> A difference of identification present in premodern and modern sources, to this day. see Pummer, *The Samaritans: A Profile*.

<sup>37</sup> Paul Botley and Dirk van Miert, eds., *The Correspondence of Joseph Justus Scaliger*, 8 vols. (Geneva: Librairie Droz, 2012), 1:99–101 (translation from Hebrew by Matthew Chalmers). On the correspondence and its place in the history of Samaritan studies, see Matthew Chalmers, “Jewish Knowledge, Christian Hebraists, and the European ‘Discovery’ of Samaritans,” in *The Samaritans: A Biblical People*, ed. Steven Fine (Leiden: Brill, 2022), 119–25.

<sup>38</sup> Wasserstrom, “Species of Misbelief,” 50–52.

practical.<sup>39</sup> But in classing Samaritans as Jews, it rested on categorizations drawn not from sixteenth-century Samaritan self-fashioning or Muslim polemic, but on this earlier deposit of inter-religious classification and the movement of external accounts of Samaritan identity between Christians and Jews.<sup>40</sup>

The inherited polemic against Samaritan heresy helps us understand why, therefore, the first section of the firman refers to the group with such stereotyped negativity. It fronts a generic slur about the untrustworthiness of the group not merely because of rhetoric or a critical position on errant non-Muslims, but because it works within a well-established repertoire of interreligious polemic against Samaritans from other minority groups living in Muslim-ruled lands.<sup>41</sup>

We typically think of minoritization as emerging in some organic sense from demographics, which does matter, but we also need to make space for understanding how minoritization is contingent on classifications generated from much older and often more obtuse definitions than might be expected. The colonial catalogue and the handbook of international law are *instances* of the bureaucratization of minority status—but they do not exhaust it. In the firman, that continues to embrace Karaite-inflected categorization over against Samaritan self-definition, the marks of an older polemical history are clearly visible over and against any attempt to grasp the contemporary statements of Samaritans themselves.

Thus, the firman raises the question of whose ideas it takes to form the name Samaritan into a minority status, and it answers the question by decentering any categorical intentions from the imperial state in question. An approach to definition and classification that resists an easy binary of state or Islam versus non-Muslim group. Here, the firman absorbs inter-Israelite polemic in the process of stipulating behavior for a specific group. It transforms and takes it over, to be sure, but it cannot wrestle it fully away from its origins.

Additionally, the firman provides modern historians with a window onto the mechanisms by which Ottoman authorities aimed to delimit Samaritan interactions with the state—and the challenges therein show a minoritization also established not in terms of weakness or deprivation, suggesting we should even modify those current scholarly views on minoritization that define it in terms of relative access to valued resources or power. Minority status is in this case performed by Samaritans in the form of a delimited, skill-based place for them in the Ottoman administration by which they are nevertheless set apart in legal issuances. Minoritization is here a collaborative affair rather than merely a top-down imposition. In how many situations, when, as historians, we deal with a religious minority, do we risk oversimplification of the case by a desire to isolate the imperial power doing the labeling?

The consensus amongst scholars of Ottoman administrative policy towards the religion of the empire's subjects is that the empire aimed at efficient maintenance of the status quo. As Suraiya Faroqhi writes, "We must assume that 'ordinary' officials learned what they needed to know about the principles of Islamic religious law in what we would call

<sup>39</sup> Wasserstrom, 288. The classic work on the demographics of Palestine and related tax revenue is Amnon Cohen and Bernard Lewis, *Population and Revenue in the Towns of Palestine in the Sixteenth Century* (1978; repr. Princeton: Princeton University Press, 2015).

<sup>40</sup> The miscategorization of Samaritans as Jews against their own identification continues even in specialist scholarship. See, for example, Paul S. Rowe, introduction to *Minorities in the Middle East*, 1–16, at 9. This follows older scholarship, especially in English, after James Montgomery, *The Samaritans: The Earliest Jewish Sect* (Philadelphia: John C. Winston, 1907).

<sup>41</sup> For other examples of such polemics, and particularly Ottoman anti-Judaism, see the contributions in Hakan Karateke, H. Erdem Çipa, and Helga Anetshofer, eds., *Disliking Others: Loathing, Hostility, and Distrust in Premodern Ottoman Land* (Boston: Academic Studies Press, 2018).

on-the-job training, and judges familiarized themselves with sultanic edicts in a similar fashion. Pragmatism was thus the order of the day, a tendency furthered even more by the fact that no sultan was bound by the rulings of his predecessors.”<sup>42</sup>

Such an approach did not take the form of the *millet* system familiar in later centuries. But it nonetheless involved interactions between Ottoman bureaucracy and religious groups that acknowledged and legislated the distinct, non-Muslim existence of those groups. Typically, leaders of these groups would receive endorsement from the Ottoman administration.<sup>43</sup> This dynamic can be in part explained by the imperial context of which Ottoman legislators and jurists were a part: As Samy Ayoub observes, “[u]nlike state law, imperial law is negotiated, not imposed.”<sup>44</sup>

The firman illustrates the social historical complexity of more theoretical scholarly interpretations of Ottoman administration in its implication that the precise manner of oversight of the Samaritan minority was already proving something of a protracted problem of rule. “Some time ago,” the firman’s writer admits, “a noble firman was already sent to you in this matter.”<sup>45</sup> How might we best explain the reference back to a previous firman? It could be a rhetorical flourish; a sort of bureaucratic throat clearing. It is possible that the authorities wanted to reinforce the weight of their current issuance by a reminder of a paper trail and of previous precedent. But neither of these explanations fully account for the formalized irritation that such a phrase communicates.

The most suggestive reading, then, at least equally plausible as the alternatives, is that Ottoman officials recognized that they had been unsuccessful in limiting Samaritan involvement in administration so far. The Samaritans, as we know from the firman, provided one set of clerks or middlemen for the Ottoman taxman. And this short phrase suggests that firmans were not effective for limiting officials’ reliance on Samaritan clerks. Perhaps there were not enough skilled non-Samaritans available. Perhaps the shift to new clerks at short notice was just undesirable. On this point, forced into a corner by Samaritans as well-adjusted subjects and pragmatic Ottoman officials, the powers that be attempted to sever Samaritans from a relative prominence in Palestinian provincial society that the Ottomans themselves had facilitated by the bureaucratic layers of Ottoman provincial administration of newly acquired Syria and Palestine within fifty years of the extension of Ottoman rule over Palestine after the Mamluk defeat in 1517 and the necessity for skilled Arabic writers already embedded in the existing administrative systems.

This firman therefore shows how the mechanisms by which the Ottoman state organized its minorities could be divided even against themselves. In turn, this points to one way to adjust scholarly theories of minority status. On one hand, scholarship on religious minorities has (with moderate success) moved past the demographic terms of older political science, according to which a smaller group within a larger group—cultural, religious, ethnic, political, or otherwise—comprises a minority—with emphasis solely on *smaller* and *larger*.<sup>46</sup> By and large, scholars recognize that minority status intersects with all sorts of asymmetries, and that those asymmetries are not necessarily limited to a relationship between only two parties. Yet, scholars still typically think of minoritization in terms of

<sup>42</sup> Suraiya Faroqhi, “The Ottoman Ruling Group and the Religions of Its Subjects in the Early Modern Age: A Survey of Current Research,” *Journal of Early Modern History* 14, no. 3 (2010): 239–66, at 251.

<sup>43</sup> Faroqhi, “The Ottoman Ruling Group and the Religions of Its Subjects in the Early Modern Age,” 256–57.

<sup>44</sup> Samy Ayoub, *Law, Empire, and the Sultan: Ottoman Imperial Authority and Late Hanafi Jurisprudence* (Oxford: Oxford University Press, 2019).

<sup>45</sup> See above, note 27 and accompanying text.

<sup>46</sup> Fuerst, *Indian Muslim Minorities*, 50.

ruling powers in an antagonistic relationship with lived religious difference, as Fuerst and others do.<sup>47</sup>

The firman indicates a function of minority status decoupled from the idea of a lack of power. The Samaritans are not minoritized through disempowerment. In this case, Samaritan minoritization takes the form of fragile but continuous affirmation of their local power by regional officials and the failure of limitation on their participation in Ottoman bureaucracy by centralized authorities, at least up to the point of the issuance of this firman. Their minoritized status is thus grounded in, and confirmed by, their continued success as a discrete group with specific skills positioned to navigate both Mamluk and then Ottoman rule. The firman's reference to the Samaritans as a "wicked and mischievous group of people" who "practise [various] kinds of tricks and deceit on the Muslims and are the cause of their (the Muslims') property being taken away without any reason"<sup>48</sup> demonstrates that not only did the Samaritan clerks have significant access to resources and power but were even feared due to the latter. The firman specifically mentions that, it is out fear of this power and its potential abuse by the Samaritans that the Ottoman peasants "render service" to them. While the document remains vague about what this service (*hizmet*) entails, a possible interpretation of the officials' concern about it is that the Muslim peasants were trying to bribe the Samaritans in order to get a more favorable treatment from them—a situation which empowered the Samaritans even further and rendered Muslims—who were supposed to enjoy more privileges than their *dhimmi* counterparts—at the latter's service instead.

Another firman, this one issued in 1578, confirms that the complications of dealing with Samaritans continued. In this firman, the *kadi* strongly forbids Damascene Samaritans (and Christians) from dressing like Muslims.<sup>49</sup> In other words, Samaritans continued to irritate—their ability to purchase and dress like Muslims was in no way constrained, it seems, by attempts by the authorities to compartmentalize them.

By noticing this, historians can start to model minority religious status in line with a more complex theory of how power and minorities intersect, in line with Fuerst's own broader account of minoritization as the collapsing of a group "into a singularity with both identifiable and marginal traits."<sup>50</sup> Such a model posits that state functionality might be able to function precisely because of the division of its own power, with state actors simultaneously relying on established classifications of difference and considering those classifications largely irrelevant.

This model helpfully moves beyond the fracturing of imperial categorization as a failure of top-down power to cope with the complexity of lived experience. There is a sharp edge to the quotidian. The ability of everyday life to adapt for inconsistencies, especially inconsistencies of status, is precisely what makes imperial rule possible. In the case of the Ottoman Samaritans, and this firman, we see the pliability of local minority practices particularly clearly. As a minority, with contested status, the Samaritans participated actively in the fiscal bureaucracy of a state intentionally aiming to isolate and remove their involvement. Because their minority status was so well defined in their activity, they end up secured against a specific type of disempowerment. But because of that security they ensure the local stability of Ottoman taxation. Ultimately, when Samaritan circumstances changed and Ottoman rule remained, the Damascus Samaritan community relocated. It is not clear exactly when the last Samaritan family left Damascus,

<sup>47</sup> Fuerst, 50.

<sup>48</sup> See above, note 27 and accompanying text.

<sup>49</sup> Heyd, *Ottoman Documents on Palestine*, 173.

<sup>50</sup> Fuerst, *Indian Muslim Minorities*, 6.

but Samaritan Israelite oral history suggests 1035 AH/1625–26 CE, some sixty years after the firman of 1565.<sup>51</sup>

As stated above, this takes us beyond the typical temporal limits of discussion of minoritization, here broadly defined as manufacturing a group as a discrete minority somehow differentiated from the default identities of their culture. True enough, as Elizabeth Shakman Hurd has argued, the extrapolation of disembedded religion as a concrete, quantifiable element of all human societies, and the administrative application of religious classification and minoritization as a ruling tool, does belong to Euro-American empires.<sup>52</sup> Similarly, as Benjamin Thomas White argues, the formal language of *minority* to describe groups has a specific history, one tied to British and French mandates in the Middle East after the First World War.<sup>53</sup> This is not, however, the full story, since the usefulness of analytic language is not limited only to the historical contexts where that language occurs. Nor does the modern period have a monopoly on the social, political, and cultural devices that order societies in hierarchy. There can be, therefore, more to say about minoritization.

We can understand minority status much better when we consider a much wider range of evidence than that which links to contemporary policy concerns, including premodern evidence *and* when we work with it not just in terms of legal theory but in terms of people's efforts, in various places and times, to *do the work of law*. A focus on modernity provides too thin a chronological basis to understand the legal anthropology of minoritization—but a legal anthropology of minoritization can be reached by extending the limits of discussion of legal enforcement beyond the modern state in its various forms.

## Conclusions

Modification of the lives of groups under Ottoman rule offers a way to reexamine the theory with which scholars currently frame analysis of minority status. Thinking through Samaritan status in a time and place beyond the limits of Euro-American empire suggests the possibility of remodeling minoritization beyond an emphasis on disempowerment and disenfranchisement, paying attention, instead, to the mechanics of minoritization in practice and its rhetoric of classification. The firman of 1565 aimed to sever Samaritans in Damascus from one source of their social power. But from its issuance, we see more clearly how minoritization must sometimes be understood separate from disempowerment. Samaritan minority status was comprised, at least in part, precisely by their social power. The Damascus Samaritans retained their clout in a localized context, even while that clout made them into a specific type of minoritized target for the sequence of firmans from the *kadi*. And some of the local Ottoman authorities appear to have acknowledged *both* the maintenance of Samaritan influence (through their employment as clerks) *and* their minority status. The representatives of the state reinscribed technical minority status while working around the *kadi's* effort to make minoritization mean *merely* a reduction of social power.

Minorities, by virtue of their strong discrete identification, sometimes present a challenge to the classificatory modes of official definition even as the official attempts to classify them as minorities proceeds. At other times, as with the Samaritans in this Ottoman firman,

<sup>51</sup> Yitzhak Ben-Zvi, *Sepher hashomronim* (1935; repr. Jerusalem: Yad Yitzhak Ben-Zvi, 1970), 125.

<sup>52</sup> Elizabeth Shakman Hurd, *Beyond Religious Freedom: The New Global Politics of Religion* (Princeton: Princeton University Press, 2015).

<sup>53</sup> Benjamin Thomas White, *The Emergence of Minorities in the Middle East: The Politics of Community in French Mandate Syria* (Edinburgh: Edinburgh University Press, 2011); Mahmood, *Religious Difference in a Secular Age*, 32.

we see how the idea of minority challenge to imperial disenfranchisement is too thin an explanation for the microdynamics of status. If we look only where top-down authorities aimed to disenfranchise and where minorities resisted or exceeded that effort, we will have only a partial grasp on minoritization and its historical functions. Minoritization can disempower, but it can also acknowledge and consolidate power. Perhaps the lesson we take about the complexity of status definition in this premodern example can guide scholars in reaching definitions of the processes of minoritization that take better account of historical analogs.

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