

People and Court

Policing Public Morality in the Streets of Aleppo

The shari'a represents the point of view of religious doctrine compiled by centuries of jurists in order to create guidelines for Muslim believers, whereas later Ottoman law combined some aspects of the shari'a along with imperial edicts into a series of codes to guide the administrators of the empire. Neither of these legal traditions represents the full picture of the everyday practice of law in court. Even though we may never be able to create a complete picture of the courts, we do have sources to aid our understanding of their daily function, namely, the shari'a court records. These sources can lend insight into everyday life in the Ottoman Empire and provide the best possible information concerning the administration of justice and policing of crime in the Ottoman period. The shari'a court records have been used to construct the following thematic chapters that examine various ways in which criminal cases of *zina* as well as related issues of public morality were treated in the shari'a courts. Before embarking on those themes, I will highlight some of the aspects of this source as well as recent debates concerning their use.

The shari'a court records are helpful in their documentation of Aleppo's social hierarchies and class that in many cases factored into policing patterns throughout the city. It was common for cases of moral wrongdoing to be policed by entire city quarters, whereby residents would appear in court and testify against a criminal. Abdul Karim Rafeq has called this process "quarter solidarity" in his study of eighteenth-century Damascus.¹ City quarters had an intricate system of patronage that was characteristic of the early modern state wherein neighborhood strongmen both represented their communities and mediated disputes between residents. These strongmen, and other neighborhood representatives, worked together to

criminals were convicted and punished by a judge (*qadi*) without any evidence to reveal whether the punishment was ever carried out. Historians have lamented that determining whether the punishment was carried out is almost impossible.⁹ Chronicle accounts, read in conjunction with the court records, can provide supplementary details concerning punishment, but trying to find specific outcomes for a court record is sometimes problematic because the outcome was not always clear. For instance, *ta'zir* could be prescribed by the judge, but what did it entail? Was *ta'zir* fining or banishment? Usually in cases of physical punishment, the records provided more detail, noting that *ta'zir bi'l-darb* was prescribed by the judge; however, the number of floggings was not listed.¹⁰

The court record is not an actual account of the court proceedings. It is a rendering by a court scribe (*katib*) who often employed formal court language. Some authors have called it “nothing but a translation of a particular legal performance into a formal and immensely formulaic language.”¹¹ There is evidence that accounts were not recorded during or immediately after the court proceedings. These accounts are sometimes not recorded in the *sijills* chronologically and are sometimes copied twice. Additional evidence includes the fact that paternal names were sometimes left blank in the record, which hints at a later recording long after the case had ended.¹²

The methodological problems in studying court records have resulted in critical analysis of the source by authors such as Bishara Doumani, who views them as literary texts in his own work on Ottoman Nablus. He argues that the court records were “self-conscious representations reflecting the agendas of particular individuals, groups and institutions.” Another Ottoman historian, Dror Ze’evi, makes a similar argument on methodology, stating, “No source is a simple mirror. All sources are complex webs of meaning, in which a social ‘reality,’ a series of specific biases, contemporary codes and symbols, styles and tropes of writing, the interventions of copiers and editors, all blend inextricably to form a written source.”¹³ I agree that there are a number of unwritten forces at work and that various interests often underlie the records. However, in terms of the scope of this study, I have chosen a more legal reading of the court records that focuses on the adjudication process. From that legal standpoint, I concentrate on the composition of the case, the use of witnesses, and the verdict of the judge. Therefore, I do not treat the court records only as literary texts but instead try to search for agency within them, as well as underlying motivations and legal outcomes.

Natalie Zemon Davis in her study of sixteenth-century French Inquisition records, as well as other court registers, has examined narratives and testimony with such innovation that it has inspired social historians both within and outside of European history.¹⁴ Although Davis has conducted brilliant analyses of testimony, as in the infamous case of Martin Guerre, some of the ways that this methodology has been interpreted by Middle East historians can be problematic for the study of the already marginalized, that is, non-Western and gender histories. It is certainly possible to question interpretations of an event; it is something else to place the event only in the realm of discourse. If that is the case, did the event ever happen at all? I concede that testimony in some cases could be fabricated by a witness or sculpted by the scribe, and in those cases the historian can rightly question the intent of the witnesses or scribe. But what holds true is that these cases were actual cases brought to court and documented and not unlike court records in other legal traditions whose authenticity as lived experience is rarely questioned. If the event is a case of rape, as in Aleppo cases referenced in chapter 5, are we to treat the vivid descriptions of rape sometimes offered by women before the *qadi* as a “representation” or a lived experience? This is not to say that one cannot look at intention and the crafting of narratives by women who have submitted rape charges in court. For example, I call into question why women waited until their sixth month of pregnancy to appear in court and testify that they were raped. Therefore, I strive to examine the social, legal, and political factors in the crafting of testimony without detracting from the agency of marginalized groups whose voices we may be hearing for the first time in the shari‘a court records.

Historians who use court records, whether in the European or the Ottoman context, do ultimately encounter the perceived voices of those individuals in the textual record. First-person narratives sometimes appeared in Aleppo’s court records. In a language that does not use quotation marks, grammatical markers indicate the shift to possible quotations, although some historians have cautioned against understanding these narratives as the “actual words of the litigants.” Instead, what we see in the court record is “the translation of their voices into the official language of the legal system.”¹⁵ I began to understand some of these narratives as “voices” not just because of their first-person grammatical constructions but also because of their use of colloquialisms that encouraged me to believe these records are fragments of testimony. For example, in a case of spousal abuse, the battered wife’s testimony is awkwardly documented in the

scribe's hand in first person colloquial Arabic, and we hear the wife's voice when she says, "He hit me and said to me 'free me (*ibri'ini*) of your dowry (*mahrunki*) until I divorce you (*tila'uki*)" and then later he said to me 'I added it up and your dowry is a burden."¹⁶ In this case, we have the wife's rendering of a conversation with her husband, and the court eventually ruled in her favor. This type of phrase gives us a small sampling of the plaintiff's voice and works to document the speaker's agency, in this case a battered wife. Other examples include rape cases in which women and sometimes even rapists describe the rape in vivid detail in a first-person narrative.¹⁷

Use of shari'a court records for quantitative analysis has been rightly criticized by historians. Such analysis would not be conclusive because the records are incomplete; for example, several volumes of court records (*sijills*) are missing from the Syrian collection.¹⁸ Furthermore, a number of cases were not documented because they were settled outside of court through informal arbitration (*sulh*) conducted by families and neighborhoods; as they are undocumented, their outcomes cannot be determined.¹⁹ Therefore, such statistics tell us only about cases that made it to court, not the ones that were settled through other means. Recent research by Boğaç Ergene indicates that the court fees may have been too high for the lower classes to afford, as the courts of Çankırı and Kastamonu tended to charge more than the official price dictated in Ottoman manuals. Thus, the samples from court records may not be as representative of class as previously believed, making it difficult to claim that the records allow us to actually get at a "history from below."²⁰ For residents, the cost provides yet another motivation for seeking outside arbitration rather than a formal court appearance. The court record occasionally makes reference to arbitration, indicating the use of informal, undocumented legal processes conducted at the local level. There was an informal arbitration, and if it was ever ineffective, neighborhoods brought the case to court of their own volition.

Aside from the shari'a court and informal arbitration, the people had access to the *hakim al-'urf*, the governor of the city. He could not administer the shari'a but instead applied the laws of the state. In some cases, if an appearance in front of the *hakim al-'urf* did not produce the desired result on the part of the litigant, plaintiffs could seek another ruling in the shari'a court.²¹ This appeal process provides further proof that there were alternative legal avenues operating outside the formal shari'a court system that was available to the community at large.

Despite our access to shari'a court records, more questions are generated by them than answered. What do we know about punishment in the courts? Was there a formal prison system? The Aleppo court records mention prisons; for example, the sultan's prison and the police prison were both mentioned in the records studied. The prisons were usually mentioned in cases of those individuals imprisoned for outstanding debts.²² Alexander Russell's account of eighteenth-century Aleppo notes that corporal punishment was rarely practiced, but when it was, the crime was usually a capital offense. Foreign observers reported that murderers and rebels were hung for their crimes on posts in the marketplace. Where the convicts were executed, how they were executed, and by whom are questions not documented in the court records themselves. Some evidence is available through Russell's account, as he notes that executioners were often Armenian Christians yet observes that they were not very skilled in beheadings, stating that they were "performed in a very bungling manner, from the executioner's want of practice."²³

It is not only the process of punishment that is absent from the Aleppo records, for the police are rarely mentioned. We know that the Ottoman governor had means of policing, as Herbert L. Bodman Jr. writes, "Every *wali* had at his disposal a force of cavalry to keep order in the province and of infantry to police the city. These troops, called *dalis* and *tufinkjis* respectively, were in the pay of the *wali* himself and their number varied according to his means and needs." Whereas the *tufinkjis* operated as an urban police force for the governor, the official police, subject to the *qadi*, were the *subaşı*. While examining breaches of sexual and public morality in this period, only four cases were found in which an Ottoman police officer (*subaşı*) appeared in court.²⁴ The reason may lie in Ottoman law, which deemed it the responsibility of residents to bring cases to the attention of the court. Regardless, Ottoman officials were responsible for actually apprehending and bringing criminals to trial.²⁵

In our pursuit for greater understanding of the Ottoman legal process, a few authors have explored the dynamics of shari'a court procedure and structure.²⁶ At the center of the court sat the judge (*qadi*), whose position was an official Ottoman post. In theory, judges were to be trained and later dispatched from the Ottoman Porte to various courts throughout the provinces. They were to be rotated every year in an effort to maintain some neutrality between judges and local residents.²⁷ Abraham Marcus determined that ninety-nine judges

passed through Aleppo in the eighteenth century.²⁸ This heavy rotation placed the judges at an advantage in terms of arbitration, as they did not have the same local loyalties as the litigants involved in the court cases; however, their cultural differences did incur disadvantages. The judges, being outsiders, were generally unfamiliar with local customs and laws. They relied on local expert witnesses (*shahud al-hal*), who advised the judge of local customs and traditions he would not otherwise know. The judge also had a large resource at his disposal: the preserved court records from previous judges. Part of the motivation to document the court proceedings may have been their use as a recorded memory of previous rulings that could serve as a guideline for the foreign, and temporary, Ottoman judge.

There were other staff available in the shari'a court as a resource for plaintiffs and defendants. Through references in the court records, as well as the aforementioned studies, we know that the court had three deputies (*na'ib*) who were present in court to represent the three alternate schools of Islamic law. These positions were often held by local members of the *'ulama*, who often enjoyed longer periods of tenure than the *qadi*.²⁹ The deputies complemented the school represented by the chief judge of the court and offered alternative interpretations of the law for plaintiffs and defendants to choose from. This flexibility could be strategically important in some cases. For example, the Hanafi school of law did not allow an abandoned wife to divorce her husband until she reached the ripe age of ninety years old, yet the Shafi'i school did allow annulments in such cases. When these cases appeared, the Shafi'i *na'ib* would step up and grant an annulment.³⁰

The volumes (*sijills*) of court records usually, but not always, list on their first page the name of the judge who is presiding over the court and the name of the court.³¹ Although some features of the court are well known, little is known about the courts and staff who worked within them. For instance, we know little about the court scribes who recorded judgments and whose penmanship preserved important details of court cases. There is some evidence in biographical dictionaries that suggests scribes were from *'ulama* families, as the position of scribe was often granted at the beginning of one's career; however, details on court scribes are rarely mentioned in Syrian records.³²

Aside from these court positions, the position of mufti was separate from the court structure, yet it was connected in many ways to court procedure. The mufti,

unlike the judge, was often a local member of the *'ulama* who was appointed by his cohort. There was typically one position for each of the four schools of Islamic law.³³ The mufti was linked to the court through his fatwas that could be used by parties to support their cases before the *qadi*. In such cases, the mufti's role vis-à-vis the court was important, but not part of the actual court structure.

From the literature recently produced using the shari'a court records, differences in the ways courts operated from one locality to the next are beginning to appear. The ways in which the courts operated and were utilized by local populations varied. One observation is that urban populations had a tendency to utilize the courts for the registration of marriages. Cities such as Jerusalem and Cairo are frequently cited by historians for their vast amount of marriage contracts stored in the volumes of the shari'a courts.³⁴ For example, Judith Tucker in her comparative study of records from three shari'a courts observed that marriage contracts were recorded more regularly in the courts of Jerusalem than in Nablus and Damascus.³⁵ Such variations reflect the diversity of the usually cited monolith, "the shari'a court." It is clear that there is no monolithic shari'a court, and not all courts can be measured by the same yardstick.

The Syrian archives possess shari'a court records found in the cities of Aleppo, Damascus, Homs, and Hama.³⁶ The Aleppo court, usually referred to in the singular, contains records for five courts in all. Four of the shari'a courts practiced Hanafi law, and one administered Shafi'i law. The largest court was the Mahkamat al-Kubra, the city's major court where the Hanafi judge presided. "The Mahkamat al-Kubra was situated between Suwayqat 'Ali and Bab al-Nasr in front of the Mihmandar Mosque which was also called the Mosque of the Court or the Mosque of the Judge."³⁷ Since the Mahkamat al-Kubra was the major Hanafi court in Aleppo, before which the majority of criminal matters appeared, its records have been used in this study. The second court in Aleppo was the Shafi'iyya court. As important as the Hanafi court, the Shafi'iyya court was located in the Suq al-Sabbaghin, north of Khan al-Wazir. These two courts operated through the nineteenth century until the Tanzimat (1840-71) reforms, when the *nizami* court and a separate *mahkamah shar'iyya* were established in 1871. This process effectively dismantled the shari'a court into several courts with varying jurisdictions. From that point forward, the shari'a court held jurisdiction only over personal-status issues such as marriage and divorce, whereas the

nizami court managed criminal matters. After the reforms, mixed courts managed cases regarding foreigners whereby they were subject to their own laws, and the commercial courts adjudicated issues under their jurisdiction. There is a difference between Syria and other places such as Egypt and Anatolia. For instance, Egypt had *zaptiyya* courts, created during the Tanzimat specifically for matters of crime, and Istanbul has police records, whereas Aleppo had no similar police or criminal records.³⁸

Although *nizami* courts were established in Aleppo and Damascus during the Tanzimat, the records have not been located for Aleppo at present. Syrian authorities claim many of these documents were destroyed by the French during the French mandate (1920–46).³⁹ Their loss is but one of the limitations with respect to Aleppo's archival sources. The shari'a court records are also not complete for the nineteenth century but provided the court records used in this study. I have used 1871, the beginning of the reform period, as a cutoff date for my examination because of these dramatic shifts in jurisdiction that took place at that time, exacerbating the missing *nizami* court records.

Some of the eighteenth-century cases used in this study were found in the Jabal Sam'an court of Aleppo, which practiced Hanafi law. Although the location of the Jabal Sam'an court has not been historically documented, today a court exists in Aleppo near the citadel by that very name.⁴⁰ Jabal Sam'an, and occasionally Salahiyya, records were used when gaps existed in the Kubra court records in order to maintain chronological consistency. Together, the Jabal Sam'an and the Kubra courts contained the most criminal cases. Other courts, such as the Banqusiyya and the Salahiyya, were of minor importance for the purposes of this study, since most of the cases contained within those records were contractual, mostly financial. Mahkamat al-Salahiyya was located in the Madrasa Salahiyya in Suwayqat 'Ali. Mahkamah al-Banqusiyya is believed to have been in the Banqusa quarter.⁴¹ In sum, there were five courts operating in Aleppo in the Ottoman period, leaving scholars with many court records to choose from.

So how does one determine which court to study? Cases of public morality and crime in general (*zina*, theft, murder, and general disturbance of the peace through cursing or hitting) addressed in this study appeared predominately in two courts—the Kubra and Jabal Sam'an courts. For that reason and after several months of archival research, I decided to rely mostly on these two courts.

The Kubra court was Aleppo's major Hanafi court and contained cases from the city proper. Compared to the Shafi'iyya court or other minor courts in Aleppo, the Kubra court contained a greater variety of cases. The same holds true for Jabal Sam'an. Its cases were more diverse than the three remaining minor courts. Whereas the Kubra court tended to deal with cases only from the city of Aleppo, Jabal Sam'an dealt with cases from within the city and the surrounding villages, and sometimes cases as far away as the Anatolian Peninsula. The fact that the Jabal Sam'an court contains cases from the surrounding countryside adds diversity to the cases gathered and used in this study. I used three volumes of *sijills* from the Salahiyya court when records from the Kubra and Jabal Sam'an courts were unavailable. Because the *sijill* collections are not 100 percent complete, it would be statistically inaccurate to use this source to quantify the exact number of cases that appeared in the Aleppo courts. However, by studying selected *sijills*, a progression of cases through time becomes available to study the consistency of judgments and patterns of criminal activity.

The selection method for this study was to choose one volume (*sijill*) of court records for each decade from 1507 to 1866, stopping before 1871, as reforms took place that greatly changed the courts. *Sijill* 4 was used in this study and begins with the earliest date, 1507, which is about ten years before the Ottoman conquest of Aleppo. This *sijill* places some of the cases covered in this volume under Mamluk (1250–1516) rule in Syria, demonstrating continuity in the shari'a court system that predated the Ottomans. Sometimes a *sijill* contained several years of court records; other times a *sijill* was a compilation of several decades of records bound in one volume. Earlier court records are often mixed together in large bound volumes located in the Syrian archives. I used several of those volumes, as they cover a large span of time and not just a sample from a given decade. By reading one volume for each decade available, my research covered at least one year and sometimes as many as ten years of records per volume (table 3.1).

After reading thirty-three volumes of court registers and several hundred cases involving breaches of public morality, some of which were *zina*-related cases, a pattern of policing and crime began to appear. Certain social groups were engaged in policing crime in the city, whereas other groups appeared more actively criminal. We will examine these social groups and the roles they played in crime as it played out in the quarters of Aleppo.

POLICING THE QUARTER IN OTTOMAN ALEPPO

METHODOLOGY

TABLE 3.1
Selection of Sijills from the Shari'a Courts of Aleppo

Sijill number	Dates Hijra	Christian Dates	Court
1	956-972	1549-1565	Not listed
2	956-1119	1549-1708	Mixed
3	954-1119	1547-1708	Mixed
4	913-1277	1507-1860	Mixed
5	990-990	1582-1582	Not listed
8	1002-1006	1593-1598	Jabal Sam'an
10	964-1065	1556-1655	Mixed
11	1026-1028	1617-1618	Not listed
14	1033-1036	1623-1626	Not listed
18	1041-1048	1631-1638	Not listed
22	1050-1050	1640-1641	Kubra
27	1067-1078	1656-1668	Salahiyya
28	1070-1074	1659-1664	Salahiyya
34	1089-1090	1678-1679	Kubra
36	1098-1099	1686-1688	Not listed
43	1027-1127	1617-1715	Mixed
45	1130-1131	1717-1719	Jabal Sam'an
50	1135-1137	1722-1725	Salahiyya
55	1147-1149	1734-1737	Not listed
64	1153-1155	1740-1742	Jabal Sam'an
85	1167-1169	1753-1756	Not listed
94	1175-1176	1761-1763	Kubra
113	1189-1191	1775-1777	Kubra
130	1200-1202	1785-1788	Kubra
143	1208-1209	1793-1795	Kubra
149	1215-1217	1800-1803	Kubra
153	1218-1218	1803-1804	Kubra
154	1218-1225	1803-1810	Not listed
208	1241-1241	1825-1826	Not listed
232	1252-1253	1837	Kubra
239	1257-1258	1841-1842	Kubra
261	1267-1268	1850-1852	Kubra
296	1282-1283	1865-1866	Kubra

Source: Based on *Du'at sijillat al-mahakim al-shar'iyya al-uthmaniyya*, an archive catalog compiled by Brigitte Marino and Tomoki Okawara.

Offend even your *pasha* but not the people of your quarter.

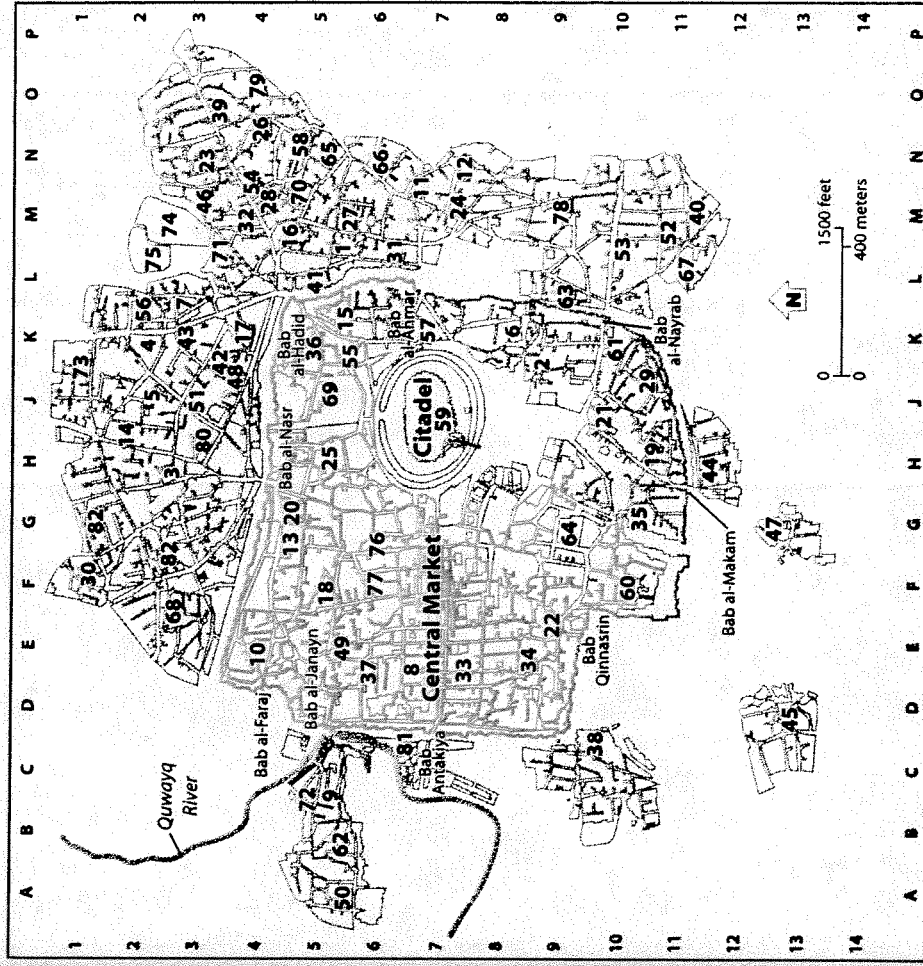
—Proverb from Aleppo, quoted in "Privacy in Eighteenth-Century Aleppo: The Limits of Cultural Ideals," by Abraham Marcus

The Aleppine proverb in the epigraph conveys the importance given to neighbors over all other authorities, even the Ottoman governor (*pasha*), in the popular imagination. This emphasis on the local is a common feature of the criminal cases investigated in the shari'a court. Nearly all the cases studied make an explicit reference to Aleppo's quarters (*harat* or *mahallat*), identifying plaintiffs, defendants, and sometimes the crimes by quarter. According to eighteenth-century statistics, Aleppo had approximately eighty-two quarters within and surrounding its city walls. Twenty-eight quarters (one-third) lay within the fortified city, whereas fifty-four (two-thirds) ringed the outer walls. These quarters lay within a one-and-a-half-square-mile radius and varied in size, some larger than others in population and parameter (map 3.1).⁴²

A common feature of these quarters was the characteristics they possessed based on the ethnic and religious composition of their residents. The Jewish population of Aleppo, as in other cities like Damascus, was found mostly, but not exclusively, in the northwestern quarters within the old city walls: Bahsita, al-Bandara, and al-Masabin. For example, historian Antoine Abdel Nour has placed the population of Jews in Bahsita at 90 percent of the total population of the quarter.⁴³ There were also high concentrations of Christians as early as the sixteenth century in the northwest part of the city, just outside the city walls in the quarter of Saliba al-Judayda (called simply Judayda today), outside of Bab al-Nasr.⁴⁴ Yet, importantly, a population of Muslims also lived among these communities of Jews and Christians.⁴⁵ Several studies have noted that non-Muslim communities were not completely segregated. Egyptian scholar Muhsin 'Ali Shuman notes that in Cairo there were predominately Jewish quarters, yet there were Muslims cohabitants. Najwa al-Qattan has found that the Christian quarters of Damascus, Bab Touma and Bab Sharqi, as well as the Jewish quarter, had Muslim residents and that Christians were found scattered throughout the city's predominately Muslim communities. Similarly, Cengiz Kirlı has observed that heterogeneity more than homogeneity characterized Istanbul's neighborhoods in the nineteenth century.⁴⁶

KEY TO MAP 3.1

1. al-Abraj (L5)
2. al-'A'jam (J9)
3. al-Akrad (H3)
4. Akyol (K2)
5. al-'Almajji (J2)
6. Altunbogha (K8)
7. 'Antar (L3)
8. al-'Aqaba (E6)
9. al-'Aynayn (C5)
10. Bahsita (al-Yahud) (E4)
11. al-Ballat al-Fawqani (Akrad al-Ballat) (N7)
12. al-Ballat al-Tahtani (al-Qattana) (N8)
13. al-Bandara (G5)
14. al-Bastina (H2)
15. al-Bayyada (K6)
16. Chukurjuk (M5)
17. Chukur Qastal (al-'Aryan) (K4)
18. al-Dabbagha al-'Atiqa (F5)
19. Dakhil Bab al-Maqam (H11)
20. Dakhil Bab al-Nasr (G5)
21. Dakhil Bab al-Nayrab (J10)
22. Dakhil Bab Qinnasrin (E9)
23. al-Dallilin (N3)
24. al-Dudu (M7)
25. al-Farafira (H5)
26. al-Farra'in (N4)
27. al-Hajjaj (Jubb Qaraman, al-Bakraji) (M6)
28. Hamza Bey (M4)
29. al-Hawarina (K11)
30. al-Hazzaza (F1)
31. Ibn Nusayr (L6)
32. Ibn Ya'qub (al-Sighar) (M4)
33. al-Jallum al-Kubra (E8)
34. al-Jallum al-Sughra (E9)
35. Jami' 'Ubays (al-Maghazila) (G10)
36. al-Jubayla (K5)
37. Jubb Asad Allah (E6)
38. al-Kallasa (C10)
39. Karlik (O3)
40. al-Kattan (N11)
41. Khan al-Sabil (L5)
42. Kharabkhan (K3)
43. Kuchuk Kallasa (K3)
44. al-Ma'adi (H11)
45. al-Magha'ir (D13)
46. al-Malindi (M3)
47. al-Maqamat (G12)
48. al-Mar'ashi (J4)
49. al-Masabin (E6)
50. al-Mashariqa (A6)
51. al-Mawardi (J3)
52. Maydanjik (M11)
53. Muhammad Bey (al-Takashira) (M10)
54. al-Mushatiyya (N4)
55. Mustadim Bey (al-Mustadamiyya) (K6)
56. al-Nuhiyya (K2)
57. Oghlubey (al-Bab al-Ahmar) (K7)
58. Qadi 'Asker (N5)
59. Qal'at Halab (Citadel) (J7)
60. Qal'at al-Sharif (F10)
61. al-Qasila (K10)
62. al-Qawanisa (B5)
63. al-Safsafa (L9)
64. Sahat Biza (G9)
65. Sajilkhan al-Fawqani (Harun Dada) (N5)
66. Sajilkhan al-Tahtani (Aghajik) (N6)
67. al-Sakkkhana (L11)
68. Saliba al-Judayda (F3)
69. Shahin Bey (J5)
70. Shakir Agha (Shukr Agha) (N5)
71. al-Shamisatiyya (Qastal al-'Aqrab) (M3)
72. al-Shamma'in (C5)
73. al-Shari'atli (Qastal al-Harami) (J1)
74. al-Shaykh 'Arabi (M3)
75. al-Shaykh Yabraq (L2)
76. Suwayqat 'Ali (G6)
77. Suwayqat Hatim (F6)
78. Tall 'Arian (Sahat Hamad) (M9)
79. Tatarlar (O4)
80. Turab al-Ghuraba' (H3)
81. al-Warraqa (Jisr al-Salahif) (C6)
82. Kharij Bab al-Nasr (subdistricts G1, G2, and G3); 'Abd al-Hayy, 'Abd al-Rahim, al-'Arba'in, al-'Atawi al-Kabir, al-'Atawi al-Saghir, Bali, Banqus (Bani Muihibb), al-Ghattas, Jisr al-Ka'ka al-Muballat, al-Mugharbiyya, al-Qawwas, al-Qir, al-Shimali, al-Tabla, Tuma 'Abd al-'Aziz, Tuma Bishara, Tuma Hidayda



Map 3.1. Aleppo and its quarters. Modified by Joseph Stoll from a city plan of Aleppo in *The Middle East on the Eve of Modernity* by Abraham Marcus (New York: Columbia University Press, 1989); used by permission.

Disputes that appeared in Aleppo's courts sometimes reflect the cohabitation of religious communities throughout the city. Such cases are instructive in the way Muslims and non-Muslims negotiated the boundaries of morality, sometimes using the shari'a courts to mediate between the two. In November 1678 four residents bearing social titles from the neighborhood of al-Almaji filed a complaint against four Christians who lived in the same quarter. They reported that the Christians drank liquor and cursed at them in their quarter. They also produced two additional witnesses to their drunkenness, as required by the shari'a. The court found them guilty and administered an unspecified punishment (*ta'zir*).⁴⁷

Aside from religious diversity, quarters reflected the ethnic diversity of Aleppo, as they were named after the non-Arab Muslim populations that had settled there earlier, such as the al-Akrad and al-A'jam quarters of the city that were originally inhabited by Kurds and Persians, respectively. On the other hand, some court records reveal that the ethnicity designated in a quarter's name was not a description of current residents but probably described earlier patterns of settlement by immigrants.

The diversity of Aleppo's population was augmented by a number of Turkmen who dwelled east of the city's outer walls. Other regional groups, such as those from Hawran, originally had their own quarter of al-Hawarina in Aleppo, but the composition of the quarter eventually diversified. Other quarters were named after the craft production that dominated certain areas of the city such as al-Dabbagha al-'Atiqa (the old tannery), al-Farra'in (the furriers), Tatarlar (messengers), al-Dallilin (brokers), and al-Shamma'in (the candle makers). No single class, commoner (*'amma*) or elite (*khassa*), dominated any one quarter, although certain quarters were favored by the wealthy, such as the areas near the citadel, central areas, and markets.⁴⁸ Instead, quarters had a mixture of social classes within them, including members of the notable classes, *'ulama*, craftsmen, merchants, and commoners.

Another important dynamic within Aleppo's quarters was the presence of Europeans in the city. On some occasions foreign nationals appeared in court to settle disputes. For example, in April 1742 two French citizens, who resided in the predominately Jewish neighborhood of Bahsita, came to court when one claimed to be injured by the other. Fantun walad Fantun stated that twenty days earlier, Yusuf walad Istifan La Funti had run over him with his horse.⁴⁹ The court

record describes that "[the horse] stomped on him injuring his upper lip and the skin on his left hand."⁵⁰ Yusuf brought two titled witnesses with him. One of his witnesses held the title of hajji, which did not necessarily denote wealth but could enhance one's reputation as religious and trustworthy; the other witness held the title of *shaykh*, indicating a possible guild representative. The accuser brought no witnesses. Subsequently, Yusuf was found innocent. This case reveals that even European nationals knew the uses of powerful witnessing to win their cases. However, sometimes cases demonstrate tensions between foreign nationals and their neighbors. The seventeenth-century case of a foreign national named Paolo discussed in more detail in chapter 4 documents his removal from al-Jallum al-Kubra quarter based on suspicion of sexual immorality.⁵¹

The strategy of witnessing found in the French court case was not unique. Social hierarchies sometimes motivated the convictions dealt by the court, stacking the deck in favor of a plaintiff or a defendant, making them important in understanding the way in which court cases were structured and why some testimony was valued more than others. Although some social classes indicated connections with the Ottoman ruling class, many social positions date back to the preexisting Mamluk state. In the Ottoman Empire, the highest social class (*khassa*) was the ruling imperial class, consisting of various Turkish-speaking officials. The next highest social class was the *ayan*, or notable class, consisting of merchants, the religious elite (*'ulama*), scholars, teachers, and *shaykhs*.⁵² The lowest social group was the *'amma*, or commoners, who were the trading and working members of the city, although sometimes the title *chalahabi* was given to individuals employed in professional classes, including doctors and those engaged in important skilled trades such as goldsmiths and carpenters.⁵³ Professions that existed in this class included artisans, shopkeepers, retailers, and peddlers. However, at the bottom of the *'amma* hierarchy were the disreputable professions: servants, prostitutes, and entertainers.⁵⁴

Social position was defined in the early modern state by three factors. First, an individual's position vis-à-vis the state determined his status. Namely, people who had a relationship with the imperial authorities or were granted Ottoman offices were able to elevate their rank in society. Second, a person's religious rank defined his position in society. Included in this category were members of the *'ulama* and *ashraf*, descendants of the Prophet Muhammad. It is important to note the politics of obtaining *ashraf* status, as one could become a member and obtain

the appropriate title of *sharif* by claiming a female descendant who married a *sharif* in his lineage.⁵⁵ The *naqib al-ashraf* (head of the descendants of the Prophet Muhammad) was in charge of checking the validity of such claims; however, there is evidence that money could buy false lineage to aid those individuals with higher social aspirations.⁵⁶ Third, wealth determined one's rank. Sometimes these three factors overlapped, especially as Ottoman officials later exploited the powerful position of wealthy notable families in the provinces, bestowing them with official Ottoman government positions such as governor, mufti, *naqib al-ashraf*, and *amin al-fatwa* (chief of the *fatwa*). This phenomenon, called the "urban notables paradigm," was proposed by Albert Hourani and has been tested extensively in Middle East historiography.⁵⁷ The theory rightly argues that the *a'yan* were important in the process of administering the empire since they served as the middlemen between the highest class (*khassa*) and the lower class (*amma*). As a class, the *a'yan* dated as far back as the ninth century and served an intermediary role "between imperial, often alien regimes and local society . . . ensur[ing] the stability of civil society in the face of chronic political instability between the Abbasid and the Ottoman Empires and in the later periods of Ottoman history."⁵⁸

Such links with the Porte resulted in the increased power of local *a'yan* so much that by the eighteenth century, the wealth that used to be directed toward the Ottoman center in Istanbul was now in the hands of local urban notables, who sometimes served in a dual capacity as Ottoman administrators, particularly in the area of tax farming.⁵⁹ The increased number of public works, religious endowments (*waqf*), and widespread ownership of property in eighteenth-century Aleppo demonstrated the growing wealth of *a'yan* throughout the city during a period in which Aleppo was increasingly integrated into the world economy.

As these elites increased their own standing, they found themselves increasingly in conflict with the Ottoman Janissaries between the years 1760 and 1820 in a struggle for power. This political instability had serious repercussions, as the eighteenth century was ravaged by "revolts, factional strife, high food prices, heavy tax demands, and large scale extortion by the powerful."⁶⁰ In part, the Janissaries were successful in exerting their control over the city in the end. However, the Ottomans continued to struggle against Janissary efforts, and eventually the Egyptian occupation would break the Janissary hold on Aleppo for good.

Despite these struggles among the city's elites, a great majority of Aleppo's residents were from among the *amma*, who constituted an estimated 65–75

percent of Aleppo's population.⁶¹ Among them were individuals who were considered morally lacking and worked in dishonorable occupations, engaging in forbidden occupations such as slave dealers, money changers, and criers. The second category included people who were moral deviants: dancers and other entertainers, prostitutes (both male and female), wine sellers, and professional mourners. The third category of disreputable commoner included persons who were impure owing to a profession that included the handling of animals and animal wastes. "Barbers and surgeons were valued on other grounds, but butchers, tanners, donkey and dog handlers, hunters and waste scavengers were despised." Another class of undesirables was the torchbearers (*al-masha iliyya*), hangmen, and executioners. This segment of the *amma* consisted of professions such as "the night watchmen, torchbearers who cleaned the latrines, removed refuse from the streets, and carried off bodies of dead animals[,] served as police, guards, executioners, and public criers[,] and paraded people condemned to public disgrace whose shame may have consisted in part in being handled by such men."⁶² Often these jobs were carried out at nighttime and sometimes included police duties. Given their presence at night, they were also often active in the criminal underworld as thieves, gamblers, and sellers of hashish and wine. Slaves and servants of the sultan were also associated with criminals, drunks, and drug users, as they all belonged to the lowest social class.

The homeless and poverty-stricken were also among the lowest members of society. They included transient poor who immigrated to the city to panhandle as well as Sufi beggars. Bedouin were also seen as transient and, therefore, viewed as a socially threatening group. Furthermore, the homeless who lived on the street either out of poverty, illness, or handicap were considered the lowest of the low.

The class composition of Aleppo appears divided and segmented, yet all these strata form a cohesive social body because of their interrelationship with one another. The three major groups of *khassa*, *a'yan*, and *amma* were interdependent and lived in close proximity to each other within the same neighborhood. Amira El-Azhary Sonbol, in her recent work on Ottoman Egypt, urges historians of the Middle East to reconsider the use of the word *elite* when referring to *khassa* as well as other classes because "it gives the impression of absolutist control."⁶³ The *khassa* were not in complete control over the other classes of society since classes were interdependent in a complex system of patronage that linked them. A crucial link between classes was the aforementioned system of promotion for

members of the *ayan*. Other groups, such as the merchant classes, formed intermediaries among these three major categories.

Social hierarchies were important in framing the court cases under study. Particularly, in cases of public morality where en masse testimony was common, witnesses were documented according to social titles, listing the names of *sayyids* (members of the *ashraf*) first, then *shaykhs*, *aghas*, imams, and hajjis.⁶⁴ Accusations of wrongdoing were not reserved for the socially marginal; corrupt *shaykhs* (religious and guild leaders), hajjis (Muslims who performed a pilgrimage), and *sayyids* were brought to court on several occasions for criminal activities.⁶⁵

Social rank facilitated the policing and adjudication of moral breaches in several ways. The social standing of individual witnesses could make or break a court case, aiding the prosecution of public morality cases since criminal conviction was often guided by how many prestigious and titled community members were present as witnesses. Furthermore, social position was also noted in court records, as many offenders were also high-ranking in society as members of guilds, religious clergymen, or descendants of the Prophet Muhammad. Hajji, for example, was a title that in some way signified a pious status in the community, since the holder must have performed the pilgrimage, but did not necessarily signify wealth because both the poor and the wealthy could perform pilgrimages.

In the *zina*-related crimes examined in this study, only 10 percent (12 out of 119 cases) involved defendants bearing social titles; all but 2 cases resulted in punishment. If we were to include cases in which defendants' names indicated fathers who bore social titles, the number of cases would increase to 37 percent (44 out of 119 cases). What these numbers indicate is that despite bearing social titles, individuals could still find themselves standing before the shari'a court and subjected to punishment. However, these numbers also indicate that the majority of defendants appearing before the court (90 percent) held no social title whatsoever, suggesting that the lower classes stood a higher chance of appearing in court. This number can be compared to Abraham Marcus's estimate cited above that 65–75 percent of the population fell in those lower classes, indicating that the *amma* represented a disproportionate share of the *zina*-related cases examined in this study.⁶⁶

How was it possible that the lower classes were disproportionately represented in court? The criteria of evidence used these cases were brought en masse by neighbors who claimed defendants were "evildoers" or "harmful," but often

the court record does not provide the criteria of evidence required by the shari'a. Boğaç Ergene has argued that en masse testimony circumvented the rules of evidence, an aspect that leaves open the possibility for outright persecution of defendants by large groups of neighbors. Furthermore, untitled defendants brought to court by groups of titled plaintiffs often lost their cases. These cases may point to an underlying class conflict, though the cases would be equally effective if the plaintiffs had no titles whatsoever, so long as the defendants also lacked social standing.

The structure of city quarters served as a natural administrative unit for the Ottomans. Communities had long been led by quarter representatives (*shaykh al-hara* or *arif al-hara*), usually nominated from among the leading quarter notables.⁶⁷ Some representatives were elected by ethnic groups to represent their interests to the Ottoman administration.⁶⁸ Part of their responsibilities included taking care of needed repairs or maintenance issues in their neighborhoods. They also gained respect in public gatherings and received governors and other Ottoman dignitaries. Ira Lapidus writes of the role of the quarter representative in policing neighborhoods during the Mamluk period: "Administrative responsibilities extended to police functions as well. Mamluk governors required the *shaykhs* of the quarters to enforce special ordinances, assist in the suppression of wine drinking, restrict circulation at night, regulate the opening and closing of shops, and enforce sanitary rules. They were also responsible for the prevention of crime, return of fugitives, and apprehension of criminals or payment of indemnities in unsolved cases."⁶⁹ Antoine Abdel Nour argues that this system of collective responsibility continued through the Ottoman period. The system of quarter representation was appropriated by the Ottomans through a network of clients and local elites. Criminal matters were handled by local strongmen instead of the appropriate Ottoman official. It is the co-optation of systems of local leadership that has led historians such as André Raymond to argue that "the Ottoman Empire must be regarded as a 'commonwealth' rather than as a highly centralized political entity."⁷⁰

The lack of centralization is best demonstrated through the position of quarter representatives, whose duties were akin to the responsibilities of the police. Scholars have noted the presence of the quarter representatives in other parts of the empire.⁷¹ This local network was a positive factor for defense. During raids by bandits and thieves, or during wartime, quarters would barricade themselves

for protection from the onslaught.⁷² In terms of policing, representatives and witnesses from a quarter could protect themselves and their neighborhoods from immoral and corrupt neighbors by showing solidarity in court.

The earliest Aleppo court records concerning *zina* and other moral breaches from the sixteenth century were brief. Often the scribe recorded only a few lines, and within them witnesses could be omitted altogether. Later records have very different witnessing patterns. Yet by the eighteenth century, long lists of residents appear at the beginning of a court record to testify against a resident in their quarter. This change in witnessing correlates with a weakening of the central administration of the empire, increased localism in the Ottoman provinces, and a loosening of its application of the Ottoman criminal code in the eighteenth century.⁷³

Correlating with these eighteenth-century trends, quarter solidarity has been observed in the courts of Aleppo. We are left to question what motivated these communities to police themselves. Abraham Marcus's volume on eighteenth-century Aleppo was the most complete study to date when it was published in 1989. In his chapter on legal institutions, Marcus discusses public morality, and it is here that he presents his argument on "collective responsibility." He writes that "the concern with local security grew out of occasional thefts from homes as well as the offensive presence of prostitution, drinking, and other forms of vice. Behind it, however, was also another driving force: fear of the authorities. Ill equipped to police the residents closely the government resorted to a system of social control by which members of groups would police each other. It held each neighborhood and non-Muslim minority collectively responsible for the behavior of its members. Residents were expected to make local misdeeds known and find the offenders."⁷⁴ This argument places Ottoman coercion as the motivation for "collective responsibility." The *kanunname* of Süleyman "held individuals, urban neighborhoods, or whole villages liable for crimes committed on their property if they could not find the guilty party."⁷⁵ For example, it states, "If a person is a disturber of the peace [who] is always engaged in mischievous activities and [whom] the Muslims tell to his face that they do not consider him a law-abiding person, the [qadi] and the *subaşı* shall take no part [in the proceedings against him]. The person who is entrusted with [the infliction of capital or severe corporal] punishment and [the execution of] the [sultan's] order [to impose such penalty] shall punish [him]." So, when dealing with "mischievous activities,"

an ambiguous euphemism applied to issues of public morality, the Muslims, meaning the people, are in charge of apprehending the culprit, and the law of the sultan shall be applied. According to the *kanunname*, "the *ehl-i 'örf* [executive officers of the court] . . . brought people to trial in *shari'a* courts for sexual offenses, the drinking of wine, non-attendance at public prayer, market delicts, and similar crimes."⁷⁶ However, in the Aleppo court records studied here, the official Ottoman police apparatus was virtually absent in court cases concerning public morality. Instead, neighborhood residents often informally and formally warned neighbors who engaged in prostitution, drinking, or cursing or who ran brothels in their homes in order to escape a collective fine. Marcus sums up his argument, asserting that "the fear of official reprisals encouraged some covering up of misdeeds, but it also worked to a certain extent as an effective instrument of group control."⁷⁷

Further support for the argument that Ottoman coercion motivated policing has been based on the Ottoman criminal codes that demand group punishment, in the form of a fine imposed on the neighborhood, if they did not report perpetrators. The criminal codes specifically address collective punishment with regard to the crimes of murder and theft. Ottoman criminal codes require community members to find the murderer if a dead body is found in their midst, or they will be collectively fined the blood money for the victim's family.⁷⁸ This order has its basis in Hanafi law that holds residents responsible for blood money in the case of unsolved homicides that occur within their communities.⁷⁹ Another criminal code requires that if a criminal hiding in a community is not found, the community will be required to pay the amount necessary to compensate the victim of his crime.⁸⁰ However, as demonstrated in the previous chapter, the Ottoman criminal codes often treat *zina* crime, as well as other moral breaches, on an individual basis rather than collectively. For example, the codes do not discuss community punishment for illegal consumption or distribution of alcohol in communities.⁸¹ Furthermore, punishment for *zina* is punished on an individual basis and clearly separates *zina* acts from other types of crimes that would warrant communal punishment. In one instance it states, "If a person knows [an act of] fornication [but] does not go to the [qadi] and tell him, no fine is [to be collected]. If he knows of a theft [but] does not tell [the qadi] a fine of 10 akçe shall be collected." Here a clear delineation is made between two circumstances, one moral and the other criminal, which subsequently separates communal responsibility.⁸²

The code does require community policing when it states, “Furthermore, if the community of his (or her) [town-] quarter or of his (or her) village complains that a person is a criminal or a harlot and, saying ‘He (or she) is not fit [to live with us],’ rejects him (or her), and if that person has in fact a notoriously bad reputation among the people, he (or she) shall be banished, i.e., ejected from his (or her) quarter or village.”⁸³ Here we can clearly see that the responsibility is placed on the community in policing these matters of public morality. However, the loose nature of the criminal behavior, in that it is based on reputation of wrongdoing, places the defining of what is immoral in the hands of the community. If, for example, someone had “a criminal past [*töhmef-i sabıka*]” or was engaging in what the community construed as “mischief,” they could be punished as a troublemaker.⁸⁴

Morality was not only something that concerned Ottoman officials. On the most basic social level, one’s reputation affected the way he was perceived in the community and whether his testimony would be valid in court. Monitoring morality was, therefore, of concern to individuals, and built into both Ottoman codes and the practice of the communities on the ground. Leslie Peirce has found in her study of morality in Ottoman ‘Aynab that most major criminal cases were brought to the court’s attention by local residents who assisted the authorities.⁸⁵

The neighborhoods not only held the power to apprehend and expel undesirables in their midst. Another legal code in this series allows that same quarter to suspend banishment should the culprit repent and lead a more righteous life after the expulsion.⁸⁶ Thus, removal from city quarters was not viewed as a permanent action, but could be overturned in the future, should the resident show signs of improvement. Therefore, Ottoman law places the power of both condemnation and redemption squarely in the hands of the community.

In contrast to Marcus’s argument suggesting Ottoman coercion was the motivating factor in community policing efforts is Abdul Karim Rafeq’s explanations for the phenomenon in his article “Public Morality in 18th Century Damascus.” Rafeq systematically outlines cases of moral breaches spanning a period of more than a thirty-six years in the Damascus court records. He argues, “Eighteenth-century Damascus was characterized by a weak administration, punctuated periodically by attempts at the enforcement of law and order.” Moreover, he describes a city corrupted by profiteering Ottoman officials, governors, and notables; soaring food prices caused by hoarding; lawlessness of Ottoman troops;

lack of security owing to the decline in living standards of the poor; and a widening gap between rich and poor. All of these combined factors contributed to an unprecedented increase in crime, suicide, and theft, as well as crimes against the moral code. Therefore, “the solidarity of the quarter became important in defending the interests of its inhabitants, both morally and materially.”⁸⁷ As for official reactions to the rise of crime, particularly in cases of prostitution, Rafeq writes that some governors often tried to appease the population who engaged in these acts. A motivation may have been placating the Ottoman local and irregular troops (as will be illustrated in chapter 5), who were patrons of prostitutes. Prostitutes were a crucial link between the ruling elite and the rebellious soldiery who made up their clientele. These examples depict a very different picture of Ottoman administration, an administration dealing with social and economic pressures, one that turned a blind eye to some crimes in order to placate an unruly soldiery. In this case, the phenomenon of group solidarity represents an attempt for the community to police itself in place of a weak administration—an argument that stands in stark contrast to those scholars who argue that coercion was the root cause of neighborhood policing.

Rafeq’s assessment of Ottoman Damascus holds striking similarities to the function of neighborhood policing in Aleppo. Neighborhoods acted as groups of witnesses in several types of court cases, including business transactions, releasing debtors from prison, criminal cases, and cases involving breaches of public morality. Furthermore, each quarter had elected representatives who were responsible for the quarter’s well-being. The representatives were to protect the residents, their property, and the moral order of their quarters. This tradition was one that existed prior to the Ottoman conquest of Syria, in the organization of youth, or *futuwwa*, bands of men organized within communities who ensured peaceful quarters. This tradition can also be seen in the local tradition of neighborhood strongmen, *qabaday*, who continue to arbitrate disputes and ensure neighborhood safety in Syria today.⁸⁸

Although several authors have argued that coercion was the impetus for policing, the records surveyed for this study fail to provide adequate evidence of its importance as the major motivating factor in these cases. Travel narratives, such as the writings of Alexander Russell, describe this type of neighborhood surveillance as common in the eighteenth century. He argues that entire neighborhoods could be held liable for immoral acts, like *zina*, should the Ottoman

authorities discover the crime.⁸⁹ However, the Aleppo courts never referenced the Ottoman criminal codes that contained this order. Therefore, it remains unclear whether Ottoman coercion was truly the motivation for community policing or quarter residents. Scholars have deduced that the Ottoman criminal code was systematically applied in the provinces based on the codes addressed above; however, the lack of reference to those codes in the *sijill* documents still leaves room for some doubt that fear of fines motivated communities to monitor immoral conduct in their quarters. The records make occasional references to fines, but a clear majority of cases fail to reference them at all.⁹⁰ This failure hints at a possible application of the *kanunname*, but is it the only reason the cases were brought to court? Neighborhoods appear to have had an established legal culture and used the court to authorize their actions. Community surveillance and policing have been documented in earlier studies of the Mamluk period.⁹¹ The court served as notary, documenting the will of the neighborhood, and almost always agreed with the group judgment made prior to the appearance in court. This is not to say that the Ottomans did not use this system in order to find effective ways of policing the community, but this folk tradition of law seems to have been more diffuse than motivated simply by sheer imperial edict and fear alone. Moreover, the fact that communities were policing themselves may have been a cost-effective way for the Ottomans to manage the empire, and the Ottomans may have chosen to keep it intact rather than interfere with it. Its long-standing tradition as a practice that dated back to the Mamluk period may explain the Ottomans' lack of interference with grassroots policing and appropriation of the practice in its criminal codes.

Communal policing efforts also served an important legal strategy at court. Boğaç Ergene's study of Ottoman Çankırı and Kastamonu has highlighted what he calls "communal domination" in the court, citing mostly cases of immoral conduct in the court records. He calls this phenomenon "one of the most convincing indicators of the collective competency of the community in the use of the judicial process to advance its own interests." He posits that this type of witnessing en masse was the only way to ensure conviction, especially when the defendant was a titled, elite member of society. He argues that when community members appeared en masse, they always won their cases.⁹² In Aleppo, as in the above Anatolian cases, it was common for only one or two members of the community to submit testimony before the court. The rest had their names recorded

and provided the strength in numbers necessary for conviction while witnessing at court.

An important aspect of Ergene's argument is the way in which strict evidentiary requirements for most court cases were bypassed in what he calls a "strategy of substitution," especially when the usual evidence was not available. This tactic ensured the community's ability to punish undesirables with weak evidence. Conversely, the good reputation of the plaintiff could also be used to ensure conviction over the defendant.⁹³ In many ways, the system was able to serve the rich and powerful, as they could use their reputations, if they were good, and their social titles to sway the judge. This point is not to be understood as falling into the *qadi* justice paradigm that has been pervasive in the field of Islamic law. Nor is it to be understood as Ottoman corruption. What is apparent is that the way the population was able to use the court reflected power struggles between social classes at the local level in Aleppo. Residents learned how to turn a case in their favor by using en masse testimony, and judges sometimes took sides in a given case.⁹⁴ Instead of looking at this system as an indication of corruption, or "qadi justice," Ergene calls the way the court conformed to multiple interests of the state and the community "operational flexibility."

Ergene's analysis does not include a theory of coercion, as have other Ottoman studies mentioned earlier; instead, he suggests that the court may have altered its procedure in order to accommodate the interests of the community. It did so by first ensuring that a powerful member of society could be challenged through group action. This strategy also had the potential reverse effect of allowing for the persecution of an individual by his or her neighbors through such witnessing. The second accommodation of the court was lowering the standards of evidence in some cases that threatened to harm the public good (*maslahah*), a concept founded in classical *fiqh* writings. The Ottoman term *fomentier of corruption* (*sa'i bi'l jasad*) indicated that a person was a threat to public order, and the *qadi* could punish the offender with a severe corporal punishment, employing the Ottoman laws, which demanded considerably less evidence, to preserve public order.⁹⁵ All things said and done, the public interest of the community was to be upheld first and foremost. Corruption was the opposite effect desired by jurists in the classical age, who were willing to bypass strict criteria of the law in order to preserve the best interests of the community. They had several means at their disposal, including concepts such as *maslahah/istislah* that focused on the public

welfare, concepts discussed at more length in chapter 4. The Ottoman judges of Aleppo were certainly affected by this basic principle found in all four Islamic schools of thought, and it may have factored into the way the desires of the community were catered to by judges.

THE GUILDS AND PUBLIC MORALITY

Community surveillance was only one form of policing found in the shari'a courts. The guilds that formed the backbone of Aleppo's economy also played an important role in policing public morality. In Ottoman Aleppo, the guild system controlled the economy of the city, making it mandatory that skilled tradesmen work within their respective guilds. Guilds also controlled the price of goods in the market and made it easier for state authorities to locate taxable income. One would not think that guilds would have much to do with the criminal world or criminal cases in the shari'a courts, yet many of the cases that appeared in Aleppo's courts were cases dealing with guild members and their immoral behavior, which presents a system of policing parallel to the method of the city quarters.⁹⁶ This presence was in part owing to the way in which the *kefalet* system worked among the guilds, as it did in the neighborhoods.⁹⁷

The Arabic term for guild, *ta'ifa*, is a term that can be used in many contexts, including descriptions of groups of non-Muslims, as in *ta'ifat al-yahud* (Jews). In other instances, it can be used to denote social groups, such as *ta'ifat al-nisa'* (women) and even *ta'ifat al-sarrajin* (thieves).⁹⁸ In the Ottoman context, the guild was "an autonomous group of craftsmen engaged in the production, servicing, and marketing of commodities."⁹⁹ The Ottoman government had a dual purpose in regulating the guilds: to manage the market affairs of the empire and to effectively levy taxes.

Approximately 157 guild organizations existed in Aleppo during the eighteenth century. They consisted of professions such as silk spinners, rope makers, bakers, butchers, and porters. According to Marcus, there were no guilds for many of the professions dominated by women, such as entertainers, prostitutes, dancers, wet nurses, and midwives.¹⁰⁰ However, during the course of this research, a document was found that references a guild of midwives in Aleppo. In the document registered in July 1642, four midwives appeared in court as expert witnesses in a case of virginity testing. The group of women midwives was led by *shaykha* Fatima

bint shaykh Mustafa. *Shaykha* (or *shaykh* in its masculine form) was a title indicating the head of a guild, in this case a guild of midwives.¹⁰¹ The women examined a girl named Karima bint Hajj Yusuf al-Mu'asirani and affirmed that she was indeed a virgin. Interestingly, Karima lived in the predominately Jewish quarter of Bah-sita, which draws attention to the fact that Muslims and non-Muslims were living in the same quarters and not completely segregated from one another. Nonetheless, the case of the midwives' guild demonstrates that the influence of the organizations was far-reaching, expanding to include marginal members of society such as women, non-Muslim minorities, and the lower class *'amma*.

There is no evidence of a guild of prostitutes in Aleppo.¹⁰² Some sources have recognized that guilds of prostitutes may have existed in Cairo, where the Ottoman traveler Evliya Çelebi observed guilds of prostitutes organized into two social classes.¹⁰³ Gabriel Baer's reconstruction of Cairo's guilds using a number of manuscripts depicts a hierarchy based on skill and moral aptitude of the work being performed. Guilds that performed work deemed immoral were on the lowest level of this hierarchy. Prostitutes ranked with the lowly professions "involved in entertainment such as snake charmers, jugglers, and hashish sellers."¹⁰⁴ Organizing even these lowly professions into guilds allowed the authorities to control these social groups. Cairo seems to be exceptionally well documented, as Khaled Fahmy has noted the names of prostitutes were kept along with the names of thieves and beggars by the governor in the eighteenth century.¹⁰⁵

The guild hierarchy placed lower levels of the *'amma* (the masses) above guilds that were seen as immoral. Other higher-ranking *'amma* guilds included cooks, tobacconists, butchers, bakers, and entertainers, to name but a few. Among the higher classes of guilds were barbers, druggists, spice sellers, physicians, furrriers, booksellers, and rice merchants.¹⁰⁶ Class differences among guild members also resulted from the slow infiltration of Janissaries into the guilds. In later years of the Ottoman Empire, Janissaries began to join the ranks of the guilds in order to profit from the tax exemptions they enjoyed through their imperial connections.¹⁰⁷ A similar phenomenon took place in Egypt when Janissaries and their sons began to dominate guilds at the turn of the eighteenth century.¹⁰⁸ As the Janissaries began to penetrate the guild system, they were eligible to become *shaykhs* and extort money from their fellow members.

A major function of the guilds was to serve their members by minimizing the amount of competition in the marketplace, creating a stable source of income

or their members. Although the guilds were autonomous and monopolized on their respective trades, they were restricted only by interference from state economic policies, especially in cases of famine and price-gouging. "The guilds system operated outside government, but not independent of it." According to the normative histories of the Ottoman Empire that outline the way in which the guilds were supervised, the *muh̄tasib*, or inspector of markets and public morals, monitored guild activity. The *muh̄tasib* was in charge of both regulating the selling price of goods in the marketplace and regulating public morality in the public interest. He could punish those individuals who transgressed norms by drinking, fornicating, and general evildoing. Examples of wrongdoing punishable by the *muh̄tasib* included selling goods at high prices, not delivering goods promised to customers, and "public bath attendants who do not use separate razors, towels, etc. for Muslims and infidels." The *muh̄tasib* was not bound by the shari'a but instead was connected to the secular authority. In such cases, he could bypass the criteria for punishment established in the shari'a. He was not allowed, for instance, to hear evidence or "even authorized to give judicial decisions (*hukm*)."⁹⁹ The shari'a court does not reference the office of the *muh̄tasib* in guild cases. Abraham Marcus suspects that the office fell into disuse prior to the eighteenth century, as the duties of the *muh̄tasib* were increasingly fulfilled by the guilds.¹⁰⁰

The importance of the guilds is reflected in the election of their own leader (*bas̄h*) responsible for collection of taxes owed the state by members. These supervisors appear often in the court records, as they were registered in the courts upon assuming the responsibility. When registered, the guild supervisors were often praised for their high moral character, a prerequisite for the position.¹⁰⁰ In a case from February 1662, a guild of rope makers (*ta'ifat al-habbalin*) testified on behalf of their new spokesman, Hajj 'Aqil ibn Mahmud. They described Hajj 'Aqil as being "a pious (*dayyin*) and morally upright (*mustaqim*) man." Some guilds had stronger moral and religious guidelines than other lower-ranking guilds, such as the guilds for immoral occupations. Guild supervisors had indefinite terms, and in order to remove one from office, according to Amnon Cohen, issues such as old age, illness, improper behavior, or complaints had to be used as a cause for removal.¹⁰¹

Generally speaking, cases like the one above reflect that most guilds had a strong work ethic to uphold that was visible in certain cases brought to court in order to remove unethical members. Marcus argues that the guilds used the

courts because they lacked a "police apparatus" that could serve to enforce the rules of the guild. He writes, "Disciplinary action against members also rested with the authorities. Members of a trade occasionally took troublesome colleagues to the judge, who imposed a punishment or fine. No member could be expelled from his guild without the court's approval. Such extreme measures against colleagues did occur, but quite infrequently." Marcus continues, noting that between the years 1746 and 1770, forty-eight cases of expulsion from guilds appeared in court. The cases ranged from "violation of guild rules and abuse of public trust to professional incompetence and cursing of the *shaykh*." Several examples of cases of expulsion are documented in the court registers. In June 1776, Hajj 'Abd al-Qadir ibn Hajj Hussein was brought to court by the guild of rope makers because "he always strives to breach matters of our profession violating our laws." In yet another case of expulsion from June 1786, the guild of printers (*ta'ifat al-basmajiah*) brought a member of its guild to court, Sayyid 'Abd al-Razzaq ibn Muhammad. Guild members complained that "he works in our profession and he always brings about our harm in his unfounded complaints to the judges."¹⁰² The guild revoked his membership because of his mischievous behavior.

Although the guild rules are difficult to discern, they did have a strict guideline of moral conduct for their members. Many cases brought to court were not so much criminal violations as they were moral breaches among the members and violations of guild laws. This strictness implies that guilds had a moralistic or, arguably, even a religious heritage. Scholars have pointed out two possible origins for the guild system. The first was the *futuwwa* associations that existed in the early modern period. The *futuwwa* were not organized according to profession but were bands of organized youth. The second possible origin of guilds is that they descended from Sufi orders, which would help explain why monitoring the moral standards of its members was important. Rafeq has argued for the possible connection between Islamic mysticism and the guilds, which may explain its strong moral character. The earliest accounts of Sufi orders found in Ibn Batuta's writings from the fourteenth century mention brotherhoods (*akh̄hiyya*) of craftsmen who held meetings in Sufi lodges (*zawiya*).¹⁰³ Although little information exists about the history and inner workings of the guilds with respect to religion, this fourteenth-century reference draws a strong connection between the guilds and Sufi orders. The guilds would gather and perform ceremonies

(*shadd*) in their lodges. They would also begin their meetings reciting the *fatiha*, the opening prayer from the Qur'an, a practice that further affirms the religious foundation of the guild system. These brotherhoods valued piety, chivalry, and craftsmanship in their brand of Sufism. It is possible that the ideals of discipline and perfection in work were seen as attributes guild members could strive for, but in harmony with Sufi aesthetics.

Therefore, it is not surprising that the guild members who failed to perform their work adequately were reprimanded in court. In April 1679, four men bearing the title *hajji* and one member of the *ashraf*, along with several other guards from the guild of Moroccan guards (*ta'ifat al-mugharba al-haras*) appeared in court in order to expel Hajj 'Ali ibn Mubarak (described in the document as *asmar*, or dark-skinned) from their guild. They complained that Hajj 'Ali and his friend Hajj Mabruk, who was not present in court, were lazy in guarding the market. Their fellow guards argued that their laziness harmed the well-being of the marketplace.¹¹⁴

Although the guilds were organized around religious principles within the heterodox Sufi tradition, they were tolerant toward Christians and Jews. In turn, guilds valued their members' abilities and moral integrity regardless of religious denomination.¹¹⁵ Some guilds were mixed with both Muslim and non-Muslim members, whereas others remained religiously, ethnically, and sometimes regionally segregated. André Raymond cites the example of guilds specific for the Christians of Damascus that he located in Ottoman Cairo. Even segregated guilds tended to use the powers of the courts to record their actions. In a case from March 1755, a group of thirteen witnesses from the guild of Sasun bakers (*ta'ifat al-susani al-khabbazin*) appeared in court to remove Markar walad Arakil as the guild representative, claiming he was a liar, harmful to others, an evildoer, and "vicious tongued." These early migrant *ta'ifas* were from the region of Sasun located in Anatolia near Lake Van and most likely Armenian, as the name Markar walad Arakil indicates.¹¹⁶ The guild, one of Sasun bakers, reflects the subdivisions of guilds by both religion and region in this case.

It is difficult to say why these cases were brought to court, but it is evident from the court registers that the guilds brought cases to court either for reprimand or to obtain a notarized document from the court signifying a change in leadership. Guilds often appeared in court to notarize officer changes when a new person was appointed as the supervisor of a guild. Usually, these records described

the moral uprightness of the new guild representative. A record from April 1736 reports that *Shaykh* Nasr ibn Hajj Muhammad, the former spokesman for the guild of carpenters (*ta'ifat al-najjarin*), was "just" (*adl*) in his dealing with their matters. Hajj Salah ibn Hajj Muhammad was selected as his replacement by the guild and is noted as being "religious" and "morally upright." In yet another case, this one from August 1662, the guild of grocers (*ta'ifat al-sammamin*) appeared in court to appoint the current guild head, Ahmad 'Iz al-Din, as the new *bazar bashi*.¹¹⁷ The guild testified that Ahmad was morally upright (*mustaqim*). All of these cases constitute examples of the relationship between the guild and public morality as it was monitored in the city of Aleppo. The guild served a police function among its membership, bringing cases to court and providing testimony en masse, as in other breaches of morality. The courts upheld the values dictated by guilds when they expelled members and replaced undesirable leaders.



Through the examples of quarter solidarity and guilds, the informal grassroots mechanisms for policing moral breaches become clearer. People used the court to exercise the will of their communities, whether local neighborhoods or professional craftsmen. The court, so long as proper witnesses were available, endorsed the will of those communities. Sometimes legal procedure conformed to those local interests, allowing communities to expel undesirables based on circumstantial evidence and loosely defined moral breaches. Ottoman law, in many instances, placed the onus on the community in these matters, a continuation of a practice held by earlier empires. The *kefayet* system was effective for the empire, and little energy was expended, as neighbors and guilds apprehended mischievous members of the community and brought them to court. The court, in this sense, served to document the will of the community in these cases. These trends apparent in the archival record are a common feature of the crimes of public and sexual morality that are investigated in the next chapters.