

Ottoman Legal Pluralism and Extra-Territoriality in “A Printer’s Old Plea to Reform Legal Pluralism in Khedivial Egypt”

Thank you, Malika, Omar and Muhammad Adam, for organizing this special session of the “Middle East Beyond Borders” workshop to honor Kathryn’s memory.

In 1870, Ḥasan al-‘Idwī al-Ḥamzāwī, an acclaimed Azharī ‘ālim, commissioned a book from a private printer in Cairo. Moise Castelli, the printer, was a Jewish-Italian immigrant who came to Cairo from Florence in the 1830s, with the early waves of European immigrants into Egypt. Castelli quickly established himself as one of the first private printers in the city, conveniently setting shop near al-Azhar, from where came most of the demand for his printed books. The Azharī ‘ulamā’ represented the lion’s share of Castelli’s clients. They frequently commissioned Arabic-language books, most notably religious and literary works. By the time al-‘Idwī entered Castelli’s shop, the latter had already made a reputation for himself as a purveyor of printed volumes within the Azharī milieu. In fact, al-‘Idwī himself had become a regular customer at Castelli’s printing shop, commissioning several books from him in the past.

This time, however, a dispute arose between the two men: the price for the printing job, which concerned two commentaries by the prominent Azharī jurist Muhammad al-Dasūqī, was agreed upon in advance. But when Castelli, mid-printing, revised his estimation, al-‘Idwī refused to adjust his payments, leading Castelli to pursue the case in Cairo’s merchant court.

To the historian of the nineteenth century middle east, the Castelli vs. al-‘Idwī case has a familiar tone to it. It is a commercial legal dispute –though inheritance disputes are equally common– involving a local subject and a European protégé in the fractured and uneven legal landscape of the late nineteenth-century Middle East. In the past decade or so, historians of European imperialism in the Middle East and North Africa have frequently taken up these legal disputes as windows into the fraught history of legal pluralism and extraterritoriality in the late Ottoman world. Most recently, scholars such as M’hamed Oualdi, Jessica Marglin, and Sarah Abrevaya Stein, have produced minute microhistorical studies of legal disputes which, each in its own way, sheds light on the protean world of Mediterranean legalities in the second half of the nineteenth century.

It is one such “affairs” that Kathryn Schwartz and Omar Cheta delve into in their 2021 *Past & Present* article, titled “A Printer’s Odd Plea to Reform Legal Pluralism in Khedival Egypt.” The article begins with a very surprising revelation: not only did

Castelli fail to win the case and to retrieve payment from al-‘Idwī for the printing job he was commissioned to do, but to add insult to injury, the merchant court further condemned Castelli, who was the plaintiff in the case, to pay al-‘Idwī, the defendant, a considerable sum of money in reparations.

I would like to say a word about why this is surprising and why Kathryn and her co-author thought this affair was representative of a defining moment in the history of law and empire in modern Egypt and the Middle East more broadly. As historians of the colonial middle east know well, legal disputes involving local subjects of the Ottoman Empire or its autonomous provinces on the one hand, and European consular protégés enjoying capitulatory rights on the other, rarely work in the favor of the former. In the overwhelming majority of cases, these disputes were adjudicated by the consular court pertaining to the consulate that held jurisdiction over the protégé involved: the Italian consular court for Italian protégés, the French court for French protégés, and so on. To say that these courts rarely ruled in favor of a local subject is an understatement. In fact, scholars of European imperialism in the Middle East have taken these legal disputes, along with the spaces in which they unfolded –most notably the consular court– as metonymic representations of the extensive rights of extraterritoriality enjoyed by European subjects and protégés in the region thanks to the Capitulations. These rights of extraterritoriality, so the narrative goes, were both an early symbol and a precipitating factor in the development of European imperialism, and subsequently colonialism in the Middle East.

But what happens when the system fails? In “A Printer’s Odd Plea,” Kathryn Schwartz and Omar Cheta present a case where a European protégé loses his legal battle to a local subject in a devastating way despite the fact that the dispute was adjudicated by a court system structurally designed to favor him against his local counterpart. While it was different from European consular courts, the Cairo merchant court, Schwartz and Cheta tell us, was designed to favor European parties. In fact, the court did not have jurisdiction over cases where Europeans were the defendants, only over those where they were plaintiffs. In other words, the Cairo merchant court really worked like a forum for Europeans to legally enforce their legal and commercial hegemony over local subjects.

Reading the article, one cannot help but imagine just how outraged Castelli must have been when he learned the court’s verdict. Ironically, at the heart of this case was an Italian protégé who felt he had experienced injustice. After living the life of a European in Cairo for many years, he had come to believe that to be protected by a European consular power meant that one was held accountable only to European subjects, courts, laws. And yet, there he was, made for the first time “vulnerable to the

law as his own personal predicament,” and I quote from the article here “was mixed with the uncertain future of all European subjects and protégés in Egypt.”

One of the article’s many precious contributions is that it charts the social, legal, and political conditions that make it possible for the entrenched system of European extraterritoriality in Egypt to stumble: how on earth was Ḥasan al-‘Idwī al-Ḥamzāwī able to win the case? Kathryn Schwartz and Omar Cheta show how, despite all their legally-sanctioned privileges, European subjects could at times find their power to be precarious, especially when pitted against actors able to mobilize a very different type of power, that of reputation and social capital. al-‘Idwī was no ordinary ‘ālim, he was a prominent Azharī who preached widely and garnered a loyal following among the university’s students. He was active in Sufi circles and dedicated much of his inherited wealth to supporting the wider Muslim community through commissioning scholarly texts and building mosques. All of this made him a prominent member of Cairene society and a difficult adversary to face in court.

In the Castelli vs. al-‘Idwī case, two registers of privilege confronted one another: the European legal privileges of the capitulations and the social and political privileges afforded to a member of the Azharī elite. In their close-reading of this legal case, Kathryn Schwartz and Omar Cheta propose a granular social history of extraterritoriality in Egypt, one that is embedded in the thick fabric of the city, its social milieu and networks of patronage. For someone who, like me, studies the protégé system in the late Ottoman Arab world, this is an invaluable contribution to a field that is largely dominated by scholarship that focuses on how consular protection generated supremacy and hegemony, not how it produced inconsistencies or failures on the ground.

As the title of the article suggests (“A Printer’s Odd Plea”) there was something “odd” about Castelli’s case. Kathryn took that as a clue that something important was at play here beyond the usual story of European extraterritoriality in the late Ottoman world, and that Castelli’s story could help us make sense of it. This inclination towards a practice of “reading for the oddities,” and this commitment to the task of carefully peeling the layers of a subtle and unusual archive, were very much what bought so much joy to Kathryn as a historian, and to all of us as her readers. The result is a marvelous and important study of the rapidly shifting legal landscape of nineteenth-century Egypt.

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