

Lawmaking in an Ottoman Frontier Province at the Turn of the Sixteenth Century: The Mufti of Akkirman, His Fatwas and Authority

Master's thesis by **Fatih Doğan**
Sabancı University, Turkey
fatihdogan@sabanciuniv.edu

Scholarly interest in the role of fatwas in the formation of Ottoman legal norms is on the rise. However, to date, Ottoman historians have largely limited their examination of these sources to the fatwas of chief muftis (*seyhü'lislam*) and the muftis of the Arab provinces. No study to date has examined the role of provincial muftis (*kenar müftüsü*) in Anatolia or the Balkans with an eye to both their local context and the larger imperial context of the Ottoman Empire. Existing research tends to accord provincial muftis a minimal role in Ottoman lawmaking, one limited to issuing 'non-binding legal opinions' in the form of fatwas – of interest only for the light they shed on abstract jurisprudential debates. What role did these provincial muftis play in the formation of legal norms in the provinces of the empire? What authority did they have, how did they achieve it, and how did they engage with the central government and local officers? What functions did their fatwas perform? And were the normative pronouncements they offered merely abstractions that circulated among scholars, or did they have a wider bearing on society?

Prior to the Ottomans, muftiship and the issuing of fatwas was a private activity that any qualified scholar could carry out. It thus differed from judgeship, which required an appointment by a state authority. Under the Ottomans, however, by the sixteenth century, muftiship also came to be defined as a position reserved for appointed scholar-bureaucrats, just like judgeship and professorship. By the mid-sixteenth century, the fatwas of the chief mufti were backed by sultanic authority, turning them into binding opinions followed by qadis. Apart from its practical implications, this shift marked a symbolic turn for the Ottoman fatwa. Through the inclusion of muftis in an official hierarchy with the chief mufti at the top, the Ottoman fatwa was no longer the 'non-binding' opinion it had traditionally been in the Islamic jurisprudential tradition. Instead, the fatwa became institutionalized.

This thesis proposes to take these provincial muftis seriously as agents who interpreted and adapted both the learned sharia law and imperial law to augment their own juristic, imperial, and socio-political authority, and in doing so positioned themselves as key players between the centralizing aims of the government, the realities of provincial administration, and the needs of the local populace. Focusing on Ali Akkirmani (d. 1618), the mufti of Akkirman, it explores how the realities of life in an Ottoman frontier province, the ideals of the central government in Istanbul, and the jurisprudential reasoning of muftis like Akkirmani came together to shape the interpretation of law and the formation of legal norms in the late sixteenth and early seventeenth centuries.

Relying on a wide range of primary sources, including manuscript copies of Akkirmani's collected fatwas, archival documents, law codes, and historical chronicles, the thesis begins by tracing Akkirmani's life and career as an Ottoman scholar-bureaucrat. Born in the frontier city of Akkirman (near Odesa, in modern Ukraine) in the mid-sixteenth century, he later traveled to the imperial capital of Istanbul, where he studied at Valide Sultan Madrasa, before returning to his hometown to take up a post as professor and mufti which he occupied until his death in 1618. When Ali Akkirmani returned to Akkirman in 1592, he did so as part of what was by that point a highly bureaucratized scholarly hierarchy. As mufti, he issued fatwas on various questions posed by common people, notables, judges, and others; these were collected posthumously in 1630 under the title *Fetâvâ-yi Akkirmani*.

Situated at the mouth of the Dniester River, Akkirman experienced a significant rise in commercial activity in its markets after the mid-sixteenth century. The town's population tripled during this period, with the number of Muslims eventually surpassing the town's considerable non-Muslim population. While the city increasingly became a trade center during this period, its military significance regained prominence after the mid-sixteenth century due to the escalating Cossack threat, which imperiled the Black Sea shores and even the Bosphorus. Additionally, frequent reciprocal raids along the frontier shaped the city's daily life and legal issues. The city Akkirmani returned to was home to semi-nomadic Tatars, a familiar presence from his youth, and he was no stranger to the threat of enemy raids. Yet upon his return, he must have felt the impact of these raids had grown more severe and pervasive. As he stepped through the gates of Akkirman's castle, some people may have recognized him as the boy who had left the city two decades earlier. Now in his thirties or forties, Akkirmani had returned as a scholar-bureaucrat bearing imperial and juristic authority as the province's mufti. Akkirmani's background, education, and local roots made him a uniquely distinguished figure in Akkirman's administrative and scholarly landscape (chapter 2).

In this volatile context, he assumed a dual role, both representing the imperial legal framework and, through the socio-political authority he enjoyed through his organic familiarity with the city and its inhabitants, providing an alternative legal platform for the city's residents. The notable abundance of fatwas he issued related to legal procedures, compared to those issued by other provincial muftis, offers an initial indication of Akkirmani's significant involvement in judicial affairs (chapter 3). Several cases derived from fatwas and archival sources demonstrate that he also challenged two governors, helping establish changes to the provincial administration in response to local residents' demands. As a mufti, Akkirmani also served as a legal supervisor or counterweight to the qadi, reminding him of his limits and guiding the proper course of adjudication. This is exemplified in a number of cases, most notably one in which he intervened to check the authority of the local qadi over where holiday prayers were to be held and who could lead them. Beyond his supervisory role, Akkirmani acted as a source of reliable information on religious and legal affairs for ordinary people and as a legal advisor for scholars and qadis (chapter 5). Life on the frontier posed many challenges, but even when he aligned himself with the central government, as in his insistence on collecting the one-fifth (*pençik*) tax levied on captured prisoners and other

booty from cross-border raids, he utilized the frameworks and concepts of Islamic jurisprudence in conjunction with existing sultanic decrees to ease the burden on locals and help maintain the flourishing trade networks that were his home city's lifeblood (chapter 6).

This integration of sharia and sultanic law is something that Akkirmani would have become familiar with during his education in the capital in the 1570s and 1580s, and he used this newly developing legal framework in a number of novel ways (chapter 4), sometimes to highlight his own imperial authority in the face of local challengers, sometimes to respond to local demands, and other times to expand or adapt the legal tradition to new circumstances. He established a legal basis for certain sultanic decrees within Islamic jurisprudence, such as an imperial regulation on marriage. He also took advantage of the absence of sultanic decrees on certain matters, such as the permissibility of establishing extraordinary endowments, to challenge existing practice.

Akkirmani's influence extended far beyond Akkirman during his lifetime, as evidenced by fatwas addressing questioners from Bender, Moldavia, and even Polish lands. This regional scope testifies to his broad jurisdiction and relevance in legal matters across the frontier. After his death, his collected fatwas circulated widely, reaching areas as distant as Bosnia and Egypt. His long cannabis fatwa, in which he revisited a century-long debate to create a uniform Hanafi position on the prohibition of cannabis, bolstered his reputation throughout the empire (chapter 7). This wide dissemination highlights how big an impact a provincial mufti could have on the empire's broader normative and legal framework.

In summary, this study underscores the role of muftis in the Ottoman provinces in both local politics and lawmaking. In a broader sense, it sheds light on imperial lawmaking practices in a period when sultanic law and sharia intertwined. Lawmaking was neither a top-down process imposed by a central authority, nor an abstract interpretation detached from its context. Instead, it resulted from the local interpretation of the law as shaped by the participation of various actors, muftis like Akkirmani chief among them.