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Some Notes Concerning the Apprehension of Runaway Slaves in the Ottoman Empire

The present article is devoted to a rather minor subject related to the problem of desertion of slaves in the Ottoman Empire, particularly in a period extending from the second half of the fifteenth up to seventeenth century. Our main sources are several documents belonging to the category of kânûn-nâmê\(^1\).

Regulations similar to those, which will be quoted later, can be found in numerous documents of this kind. This proves that the problem was an important one at the time. Indeed, the fate of slaves was always uneasy and an opinion that “their servitude carried with it scarcely any social inferiority”\(^2\) can be applied exclusively

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to a privileged group among them. Although the manumission of slaves was recommended by the Islamic faith, as a matter of fact desertion, at least for some of them, offered the only possibility to break off their bondages. The Ottoman administration on its part sought to prevent it and to protect rights of their masters. Several measures were taken to this effect. The duty to apprehend runaway slaves was imposed on the derbentçis. Various officials like kâdîs, sancakbegs and subaşıs were also concerned with the matter.

We would like to present a legal procedure which was applied when a runaway slave was caught. Although our paper is based on the kanûn-nâmes which embodied various regulations issued by the Ottoman Sultans, it must be born in mind that these were, at least to some extend, dependant on a broader set of ideas, namely that of the seri'a law of Islam. Accordingly, in order to understand kanûns it is sometimes necessary to refer to the principles contained in the sacred law of Islam. The problem of runaway slaves is treated by the seri'a on the same ground as other kinds of found property (lukatâ), which can not become a property of the finder. “Ownership, as Joseph Schacht says, can never be acquired by finding; the finder is only entitled to make a charitable gift (sadaka) of the found object when the legal term for giving public notice elapsed without result; if he is poor, he is entitled to use the object himself; but it is better to hold it on trust (as amâna), which implies the intention of returning it to the owner; if this is lacking, its retention becomes usurpation.”

On the whole, the attitude taken by the Ottoman administration on the issue agreed with the aforementioned principles of the seri'a. For instance, we know that if someone has found something and did not give public notice of it, he was subject to penalty: Eger bir kişi yabanda tavar bulsa yâhûd ziyâdece (زراد) nesne bulsa, çağrıtmasa — gani ise kırk akçe, veset-ül-hâl ise yigirmi akçe, faktir ise on akçe ciürm alına. ‘A person which found cattle or anything more [valuable] in the wilderness and did not give public notice of it will be fined; rich persons — 40 akçes, persons of average wealth — 20 akçes, and poor people — 10 akçes.’ And even if he has given public notice and nobody claimed the found object, the finder was

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5 J. Schacht, An Introduction to Islamic Law, Oxford 1964, p. 137.
7 A. C. Тверитинова, Книга законов султана Селима I, p. 94 (facs. 5 a). For the translation see ibid., pp. 37—38.
not allowed to use it himself, but he had to hand it over to a person called yuvaci: Amma şağııısa, şahıbi bulunmama, yuvaciya (يَوْعَاز) vereler.\(^8\)

Similar rules concerned apprehended slaves. Examining the legal procedure followed in case of apprehension we may distinguish several stages:

1. If someone has caught a runaway slave he was obliged to address the kâdi who would look into the case and record it in his sicill.\(^9\)

2. The slave was handed over to an official or an agent whose duty consisted in taking care for runaway slaves as well as for lost cattle and horses. The person charged with this task was called yâveci or yuvaci or yuvaci. The first and the second of these terms are obviously derived from Persian yâве (يَوْعَ) and yevd (يَوِد)\(^11\) respectively. But it seems worthwhile to pay attention to the third variant which is less known and not without interest from the linguistic point of view.

In the kânûn-nâmès belonging to the end of the fifteenth as well as to the sixteenth centuries yuvaci (يَوْعَاز)\(^12\) is used repeatedly along with a word yuvâ written یُوَع\(^13\) or یَوْع\(^14\) which evidently formed its basis. Both occur in clearly vocalized texts, the

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\(^8\) Ibid. The translation of the clause is not the one which I can accept: 'Если же он попросит прокричаць, а хозяин (потеряного) не обнаружится, то пусть сдают смотрителям султанских патомников [ловчих птиц] (ювачи)', Тверитинова, op. cit., p. 38. It is highly improbable that the officer mentioned here would be a person whose duty consisted in providing the Court with young falcons. For the term yuvaci in this meaning see: M. Z. P a k a lîn, Osmanlı tarih deyimleri ve terimleri sözlüğü, c. III, facsikil 24, ikinci basılış, İstanbul 1972, p. 639. But it is evident that we have here to do with another yuvaci.

\(^9\) The regulation concerning this usage is contained in several documents, e.g.: Ve her yerde ki kaçıkun esti dutulursa ol yerin kâzıları ma'rifetiYLE görüb [...] (F. Babînc, Sultanische Urkunden, p. 79); Her kângi ceribasılıkda kul ve càriye dutulsa mücecel olundukan sonra (...) (O. L. Bar kan, Kanunlar, p. 243); Ve serbest timarlarda kul ve căriye dutulsa mücecel olundukan sonra (...) (Ibid., p. 276) etc. etc.

\(^10\) See, above, n. 7. Further evidences are to be found in the kanuns collected by Bar kan, op. cit., pp. 233, 243 and 276.


\(^12\) N. Beldíceanu (ed.), Code de loi coutumières de Mehmed II, fol. 63 r°; Тверитинова, op. cit., p. 94 (fac. 5 a). See above, p. 2 and n. 8.

\(^13\) F. Babinger, Sultanische Urkunden, pp. 75 and 81; Beldíceanu (ed.), op. cit., fol. fol. 16 v° and 43 v°.

\(^14\) Тверитинова, op. cit., pp. 116—117 (fac. 16 a—б). This form is to be found in numerous kânûn-nâmès edited by O. L. Bar kan, op. cit., pp. 13 (n. 1), 29 (n. 1) and so on. The meaning of yuvâ is 'lost (cattle), stray (animal)'. Sometimes, however, the word is found applied also to 'runaway slave'. See, for instance, yuvâ kul, ibid., p. 13.
possibility of accidental mistakes being thus excluded. Unfortunately some scholars are inclined to neglect the fact and to replace *yava* for *yuva*, sometimes without any comment. Thus, the following heading of a berât included in a manuscript from the Bibliothèque Nationale, Paris (Ms. *fonds turc ancien* No 39) has been transcribed this way: "Rümelini mevqûfâtî ve yavâsî ve qaçqum". Other scholars care to retain the original form. For example, Halil İnalci while correcting a clause in Nicoara Beldiceanu’s translation takes a more acceptable attitude: “The yeva (correct form *yava*)…” Nevertheless this solution is not fully convincing, too, since it does not explain why the form *yuva* should be considered as uncorrect. In fact, we have other evidences corroborating the reading *yeva*. The word is known even in our days in Anatolian Turkish. There is no place here to discuss its etymology. However we may suggest that this etymological problem can be solved only if a whole group of words is examined. In Old Ottoman *yava*, *yau* and *yuva* are used together with *kil-* for ‘to lose’ as well as *var-* for ‘to be lost’. Similar forms occur in contemporary Anatolian dialects: *yava*, *yau*, *yağa* and *yavi*. A word *yova* (or perhaps *yuva*) existed in Kiptchak. We find it in a thirteenth century Kiptchak-Arabic dictionary explained by Arabic *عفار* ‘stray (animal)’.

15 Babinger, op. cit., p. 75.
19 See Türkiye’de Halk Ağzandan Sös Derleme Dergisi, c. III, L = Z, İstanbul 1942 (1947), pp. 1554: “yuva — 1. sahipsiz, başboş; yuva hayvanları Belediye satar; nüfusa geçmeden büyümüş ve askerlik, evlence gibi medeni işlerde sakkalmuş şu adam yuva imiş tutmuşlar asker yapmışlar”.
20 References are to be found in: XIII. Asrîdan Gümüste Kadar Kitaplarrdan Toplanmış Tanımlarîyle Tarama Sözlüğü, c. I—IV, İstanbul—Ankara 1943—1957 (abr. as "TTS").
21 A. Tietze, *Persian Loanwords in Anatolian Turkisch*, "Oriens", XX, 1967, p. 158. The author while deriving these words from Persian *yâva* has neglected the variant *yuva*, though it is also used in Anatolian Turkish, see above, n. 19.
22 A. Çafüoğlu (ed.), Abû-Hayyân, Kitâb al-İdrâk li-lisân al-Atrak (original text in Arabic), İstanbul 1930, p. 99:

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\text{یوآ (ح)} — \text{العلاّم رقاق (ْیوآ ۲ُگنِّ یوادِر)}
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It would be rightful to suggest this meaning, namely ‘stray (animal)’, to replace A. Çafüoğlu’s rendition: “Sürüden ayrılmıp yalnız kalan köyun” in the Turkish translation of Abû-Hayyân published in İstanbul 1931, p. 128.
known in Old Ottoman\textsuperscript{23}. Taking these into account we are entitled to seek for a Turkic etymology for the words listed above.

3. The \textit{yuvaç\i} paid to the finder of the slave 20 \textit{a\text{"o}çes}\textsuperscript{24}. This payment was termed \textit{müjde} or \textit{müjdeğâne}\textsuperscript{25}.

4. The slave could be reclaimed in a period of three months. Such a period was termed '\textit{iddet}'\textsuperscript{26} or \textit{müddet-i 'örfiyye}\textsuperscript{27} or simply \textit{müddet}. A similar legal period applied to lost cattle, being usually a shorter one, namely one month, but sometimes if a highly priced animal was concerned it could be prolonged to the half of '\textit{iddet}' for runaway slaves\textsuperscript{28}.

5. If the claimant has arrived in this period and was able to assert his rights before the \textit{kâdî}, the slave was to be returned to him on paying:

(a) the \textit{muştuluk} or an award for giving public notice. The sum was growing proportionally to the distance from the place where the runaway slave was caught to the place where he belonged. If it was a distance of one day — 30 \textit{a\text{"o}çes}; two days — 60 \textit{a\text{"o}çes}; three days — 90 \textit{a\text{"o}çes}; the sum could amount up to 100 \textit{a\text{"o}çes}\textsuperscript{29}.

(b) The \textit{nafaka} meaning literally 'maintenance', i.e. the owner of the slave was required to reimburse sums spent for the apprehended slave.

(c) The \textit{hifz behâsi} or a reimbursement for guarding the slave.

The amount of both \textit{nafaka} and \textit{hifz behâsi} was controlled by the \textit{kâdî}\textsuperscript{30}.

6. After the period of '\textit{iddet}' the slave had to be auctioned. It was done under the \textit{kâdî}'s control, and the contract was recorded in his \textit{sicill}. The money obtained was

\textsuperscript{23} \textit{TTS}, c. IV, Ankara 1957, p. 909: "Yuvunmak, (Yuvunmak) (1) […]: kaybolmak, gizlenmek".

\textsuperscript{24} In a \textit{kânûn-nâme} attributed to Mehmed II it is said: \textit{Ve 'abd-i âbîk tutulsa yuvaç olan 'abd-i âbîk tutub getürene yigîrni a\text{"o}ç vermek 'adet olmuşdur. 'And if a runaway slave will be caught, it became customary for the \textit{yuvaç} to pay 20 a\text{"o}çes to this one who had caught the slave and brought (him)'. Farther on we are told that the custom was altered to this effect during the reign of Murad II, whereas in older times the payment was levied from the master of the runaway slave, N. Beldiceanu, \textit{Code de lois coutumières de Mehmed II}, fol. fol. 62 v°—63 r°. The passage is almost verbatim repeated in the so-called \textit{kânûn-nâme} of Süleyman Kânûnî, \textit{Arif}, op. cit., p. 67. See, also Ö. L. Barkan, \textit{Kanünlar}, p. 43.

\textsuperscript{25} See, e.g., \textit{Arif}, ibid.; Ö. L. Barkan, \textit{Kanünlar}, p. 199.

\textsuperscript{26} Another meaning of this term is 'a waiting period for a woman after termination of marriage, J. Schacht, \textit{An Introduction to Islamic Law}, p. 299 (Glossary of Arabic Technical Terms).

\textsuperscript{27} This term may be held to indicate an Ottoman origin for the usage, according to the meaning of the 'örf' (Ar. 'urf), which connotated legislative initiative of the Sultan. See e.g., H. A. R. Gibb and H. Bowen, op. cit., vol. I, part I, p. 23.

\textsuperscript{28} \textit{Arif} (ed.), op. cit., p. 20. In the same passage included in N. Beldiceanu's, \textit{Code de lois coutumières de Mehmed II}, fol. 17 v° we find the word \textit{müddet} repeated two times. Thus, it is not clear, whether a full \textit{müddet} for a slave (\textit{müddet-i âbîk}) was meant or else a half of it.

\textsuperscript{29} See e.g. Beldiceanu (ed.), ibid., fol. fol. 62 v°—63 r°, \textit{Arif}, op. cit., p. 67, Ö. L. Barkan, \textit{Kanünlar}, pp. 43, 243.

\textsuperscript{30} For instance, Barkan, ibid., p. 26, Beldiceanu (ed.), ibid., loc. cit.
considered as a kind of emānet. This is explicitly stated in the kānūn-nāmes: Müddet-i 'örfiyeleri temām olmadan sōnra bāzārlarda kāzi ma'rifetiyle bey'-i men yeşid olmus şatlan kölu ve càriyenin ve deve ve atın behâlari eşâhî zâhir olnca bir emîn yerde hifs olunmak kānūn-i kadîmdür. 'According to the old kānūn the money obtained from the sale of a slave, slave-girl, a camel and a horse auctioned on bazaars under the kādi's supervision after the legal period expired, had to be kept in a safe place, until the owner appears.' Similar clauses are included in other kānūn-nāmes. It is worth to be observed that in the kānūn-nāme of Selim I the words emîn yerde are replaced by emîn katında, i.e. by the emîn.

I have given here only the main stages, without going into details. As a matter of fact, however, the legal procedure varied according to some rules introduced by the legislators. These were couched as follows: (1) Ve re'āyâ dutmâsinda 'i'tibâr serbest tîmârdur. (2) Ve serbest olmayan tîmârlarda kendî re'āyasîyle âgayrun re'âyasî tutmasinda fark yokdûr. (3) Deferde bu hûsus t'ayûn olunmadûğu takdîrce mir-lîvâya veya'âd subaşîlara veyâ ma'mûl olgeldiûğu üzere tâsarraf olunur. (4) Deferd 'i'tibârda âkevâdûr. (5) Andan sonya ma'mûl olgeldiûğu üzere 'amal olunmak mer'îdûr. (6) Ve yaya ve músellîm ve yûrûkler tutmalarî dañûbî bu üstûb üzere ma'mûldûr. (7) Anna sancâkbeğine müte'allik olduğu hûsûsda kenderlerîn sancâgî beğine müte'allikdûr.

'(1) And concerning the apprehension by the re'āyâ, it is considered (whether it happened in) the free tîmâr. (2) And in the unfree tîmâr there is no difference between the apprehension by one's own re'āyâ and by the re'āyâ belonging to somebody else. (3) In the case the matter is not stated in the defter, it is liable to be disposed by the mir-lîvâ or by the subaşî or according to the current usage. (4) Defer is considered more valid. (5) In other cases it is proper to proceed according to the current usage. (6) The same procedure is applied where the apprehension by the yayas and músellîms and Yûrûks is involved. (7) But as far as their dependance on a sancâkbeğ is concerned, they are to depend on the sancâkbeğ of their own.'

It would be useful to add here an order (hükûm) included in the kānūn-nâme ascribed to Süleyman the Lawgiver: Bu'dehu hûkûm-u şerîf varîd olyub kaçkun topgrağa tâbi'dûr, kañçî toprakda dûrîlôva cu'ul anûndûr, i'hrâr gayrî toprakda idügine

31 Beldiceanu (ed.), ibid., fol. 16 v°.
33 Тверитнова, op. cit. facs. 16 а—16 б; for the Russian translation see, ibid., pp. 58—59, where the following clause is, in my opinion, wrongly translated: „А до той поры пока выкуп за них не станет известен пусть их содержат у эмина (...)”
34 Beldiceanu (ed.), ibid., fol. 17 r°. Almost the same text is contained in the kānūn-nâme of Selim I, Тверитнова, ibid., facs. 16 а—16 б. For the translation see, ibid., p. 59, where the passage is, as it seems to me, misinterpreted: „В отношении понимки райятами в несвободном тимаре чужих райятов различия не существует”.
35 For a recent study on Süleyman’s legislative activity, see H. İnciçik, Suleiman the Lawgiver and Ottoman Law, “Archivum Ottomamicum”, I, 1969, pp. 105—138.
"Afterwards the august order has been issued and it was commanded that (the procedure in the case) of a runaway slave is to depend on (the status of) the earth. On whatever earth he has been caught the cu’ul is to belong to the holder of the earth (lit. ‘to it’, i.e. to the earth). Claims based on other ground that earth will not be considered.’

The question was important, since it implied financial matters. Now, apart from the terms mentioned above, another one passes in the fiscal terminology current in the Ottoman Empire, namely yuva/yava ve kağıtun resmi (or a tax concerning lost cattle and runaway slaves) which would appear as synonymous with our muṣṭuluk, müjde, müjdegâne and cu’ul. The tax belonged to the category of bâd-i havâ. And according to the principles quoted above it was granted to the holders of the so-called free timars (serbest tîmâr) who were responsible for the public order in their estates. Taxes for lost cattle and runaway slaves caught in the unfree tîmârs were collected by the sancakbeg or else by the subaşı. The procedure was more complicated where some special groups of population like the yava (piyâde), müselliim, Koyun eris, Yûrûks and Tatars were concerned. In such cases the yuva and kağıtun had to be handed over to their own sancakbegs and şeribâsis, even if these had been found or apprehended within the boundaries of a free timar, and as a matter of course, also the taxes were collected on behalf of the said officials.

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37 Concluding from the usage we think that the word cu’ul ‘payment’ can be regarded as synonymous with muṣṭuluk. On cu’ul see Ârif (ed.), op. cit., p. 20, n. 1. The explanation given by Pakalın, op. cit., c. I, fasikül 4, p. 311, is thoroughly borrowed from Ârif.
38 See on it Gökbilgin, op. cit., pp. 46—47; Pakalın, op. cit., c. III, fasikül 24, p. 607 (yâve resmi).
40 See, ibid. Numerous regulations dealing with the bâd-i havâ are included in the kânûns edited by Barkan, op. cit., passim.
41 Akdağ, ibid., p. 66.
42 See Ârif, op. cit., p. 20 (loc. cit.); Barkan, op. cit., pp. 247, 287; Gökbilgin, op. cit., pp. 47 (also the text quoted in n. 2), 245—246. Sometimes, however, the tax concerning lost cattle and runaway slaves was farmed out as a mukata'a. Such a case is mentioned in a berat included in the Ms. fonds turc ancien No 39, Bibliothèque Nationale, Paris: Ve köyun erile Tatarun yuvası subaşılarundur. Kaḳkunsu bunlar muteşarif olalar. Babiner, op. cit., p. 81. N. Belıceanu’s translation (Les actes des premiers sultans, I, p. 90) runs as follows: "Les subachi auront la jouissance de bêtes egarées des Qoyuner, des Tartares (et ils auront également la jouissance) des fuyards." This has been corrected by H. İnalçık, op. cit., p. 143: "The yuva (correct form yava) of the Koyuneri is to belong to their own subashis." But the second part of the clause: Kaḳkunsu (...) remains. In my opinion, N. Belıceanu appears to have misunderstood the pronominal bunlar 'these ones'. The persons referred to are not the subaşıs. Even if we consider these two clauses on a syntactical level there is something to suggest that N. Belıceanu’s translation is wrong, namely the suffix -sa after kaḳkun implying some
Runaway slaves apprehended in the hasse of the Sultan, as a rule, were to be handed over to the emins or official agents\(^{43}\). The well-known system of mukata'a was also applied to this purpose\(^{44}\).

The problems dealt in this paper are perhaps not without interest owing to the fact that they enable us to see another aspect of the apparatus of the Ottoman State. But some questions involved could not receive satisfactory solutions. For instance, as yet we are not sure whether the yuvaci was an official agent (emin or kul) or an unofficial one ('amil). We may add that it seems also possible that he was termed yuvaci independently from the legal basis concerning his actions. It is to be hoped that farther studies will bring an answer to this question, too.

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\(^{43}\) Runaway slaves caught in the hasse of the Sultan had to be handed over to the emins. See, Ö. L. Bärkan, Kanunlar, p. 199.

\(^{44}\) See, the berat mentioned above, n. 42. Cf., A k d a ğ, op. cit., pp. 310—311.