

TABLE OF PALESTINE AND ISRAEL CASES

1. PRIVY COUNCIL APPEALS

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47	1932	108	30	1939	83,109,164
1	1935	83, 109	41	1942	89
54	1938	113	37	1943	124

2. DECISIONS OF THE HIGH COURT OF JUSTICE

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31	1926	16	146	1942	90
48	1930	98	81	1943	34, 87
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61	1931	98	49	1945	50, 90, 99
71	1931	15, 111	110	1946	34, 87, 98, 99, 126
77	1931	96, 166, 167	332	1952	228
99	1932	24, 112	49	1954	181, 187
53	1935	98	187	1954	209
33	1942	97	69	1955	228
74	1942	98	15	1956	165
99	1942	99, 101	282	1961	229
144	1942	90	26	1966	188, 193

3. CIVIL APPEALS IN THE SUPREME COURT

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30	1923	120	191	1937	109, 164
46	1923	124	213	1937	123
34	1924	90	233	1937	139
110	1926	118	240	1937	20, 84, 109, 110, 111, 113, 116
111	1926	28, 118			
219	1926	120	20	1938	20, 84, 109, 111, 113, 116
2	1927	111, 114			
85	1927	101	132	1938	110, 164
98	1927	88, 92, 129	183	1938	110
35	1928	118	229	1938	124
88	1930	20, 111, 113, 114	13	1939	139
162	1930	88	18	1939	111, 116
48	1931	88	110	1939	123
55	1931	42, 89, 98	5	1940	24, 112
88	1931	118	40	1940	89
58	1932	88	91	1940	123
72	1932	118	100	1940	101
75	1932	120	113	1940	24, 111, 114, 129, 164
43	1933	132			
4	1937	99, 150	134	1940	134
42	1937	89	162	1940	110, 129
62	1937	90	198	1940	134
77	1937	132	39	1941	111, 115
87	1937	122	107–8	1941	95, 101

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108	1942	110	16	1949	134, 162, 163, 165
129	1942	90	31	1949	162, 165
140	1942	107	65	1949	120
179	1942	125	70	1949	107
255	1942	139	85	1949	165
43	1943	107	89	1949	116, 163
61	1943	84, 116, 134	25	1950	24
64	1943	95	87	1950	96, 166, 167
236	1943	89	92	1950	116
349	1943	124, 163	130	1950	116
13	1944	110	35	1951	110
38	1944	139	90	1951	119
70	1944	84, 116	118	1951	84, 117, 164
16-24	1945	96, 167	179	1951	117
282	1945	119	208	1951	84, 163, 164, 165
37	1946	111	59	1952	116, 163
132	1946	124	155	1952	162
138	1946	163	170	1954	165
29	1947	111, 115, 164	408	1954	84, 163
39	1947	111, 163, 165	294	1955	84, 163
167	1947	84, 117, 163, 164	41	1957	164
200	1947	166	257	1957	164
253	1947	84, 117, 164	607	1964	96, 167
2	1948	134, 163, 165	143	1967	166
41	1948	164			

4. CRIMINAL APPEALS IN THE SUPREME COURT

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160	1937	122	105	1943	122

5. LAND APPEALS IN THE SUPREME COURT

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15	1929	87	1	1939	83, 109, 139
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6. SPECIAL TRIBUNAL CASES

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60	1951	163			

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376	1959	193	822	1964	188, 193

C. Civil Cases

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420	1928	89, 94	1002	1950	163
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115	1944	101	1581	1954	164
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E. Estate Cases

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F. Miscellaneous Appeals

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60	1941	92			

8. SHARIA COURTS

A. Yafo: *Sijill Qarārāt* (JfQ1–JfQ5), vol i–v, 1950–70

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19	1957	219	130	1964	212
24	1958	193	140	1964	193
12	1959	183	150	1964	185
58	1959	193	58	1965	215
79	1959	189	75	1965	213
18	1960	189, 193	80	1965	218
35	1963	188, 193	50	1966	212
46	1963	193	89	1966	193
64	1963	212, 213	121	1967	184
81	1963	193	198	1969	219

B. Ṭayyiba: *Sijill F'lāmāt* (ṬbI1), vol i, 1950–64

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14	1954	190	34	1962	219
9	1959	190	6	1963	215
9	1961	193			

Sijill Hujaj (ṬbH–ṬbH4), vol i–iv, 1958–68

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C. Nazareth: *Sijill F'lāmāt* (NzI4), vol iv, 1947–68

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4	1964	190	162	1967	215
115	1966	214	36	1968	192
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Sijill Hujaj (NzH14–NzH24), vol xiv–xxiv, 1947–70

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D. Acco: *Sijill D'āwā* (AcD8), vol viii, 1967–70

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E. Sharia Court of Appeals *Sijill Qarārāt* (ApQI), vol i, 1954–66

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GLOSSARY OF TURKISH AND ARABIC WORDS

1. TURKISH

The orthography used in this work has been that of modern Turkish. Where there has been some question as to spelling, I have generally followed the usage of B. Lewis and S. Mardin. In one case only, that of *mewat*, the standard orthography of Palestine was preferred.

ayan, one of the country aristocracy.

bedel, a tax paid to gain exemption from military conscription.

beratli tüccari, licensed merchants.

Defter Hane, The Office of the Imperial Land Registers, which gained in importance during the land registration of the late nineteenth century.

derebey, feudal, sometimes bandit, chiefs, often dominating a section of the Ottoman countryside.

Divan-i Ahkâm-i Adliye, one of the several derivatives of the Supreme Council, in this case with judiciary functions, i.e., the Court of Judicial Ordinances.

Düstur, the official Ottoman collection of laws.

Evkaf, plural for *vakf*, the Ministry of which was charged with the supervision and administration of public *waqfs* (as distinct from private ones).

fetva (see Arabic *fatwā*), the formal opinion delivered by a specialist in Islamic law, often the *Şeyhül-Islâm* himself.

Hatt-i Hümayun, an Imperial Rescript, specifically the one of 1856 reaffirming the reforms of 1839.

Hatt-i Şerif of Gülhane, the Imperial Rescript of 1839 beginning the *Tanzimat*; “The Nobel Rescript of the Rose Chamber.”

irâde, an imperial order or decree of promulgation.

kadi asker, one of the judges of the high Military Courts, having duties specifically associated with appeal.

kanun, of Greek-Byzantine origin. In the Ottoman Empire, a form of extra-Sharia legislation used by the ruler by way of exercising his prerogative to complement and carry out the Sharia.

kanun-names, the great collections of kanuns from the 16th century on.

karar, a decision of the Council of Ministers, in contrast to a law or kanun per se.

mahlul, land fallen vacant owing to a failure of heirs, tapu-priority holders, or cultivation; open to squatting or the legal seizure by members of the public.

mahmiye, one of the two subdivisions of metruke (public lands), generally roads, market areas, threshing floors, streams, rivers, etc.

Mecelle-i Ahkâm-i Adliye, “Collection of Judicial Ordinances;” the officially-promulgated Ottoman Civil Code, a compilation of almost pure *Ḥanafî fiqh* in the areas of *mucāmalât* and civil procedure.

Meclis-i Âli-i Tanzimat, the High Council of the Tanzimat or Tanzimat Council.

Meclis-i Vâlâ-i Ahkâm Adliye, the High Council of Judicial Ordinances or the Supreme Council of the Tanzimat period.

mehkeme, Court.

metruke, land reserved for the use of the public; i.e., public lands, generally consisting of *mahmiye* and *murfake*.

mevkufe, waqf dedicated irregularly out of *miri* lands, usually leased in the manner of *miri* and treated systematically in Ottoman land law along with it.

mewat (properly *mevat*, see also the Arabic, *mawât*), dead lands.

millet, a religious (sometimes with national overtones) grouping within the Ottoman Empire, the precursor of the religious communities of Palestine-Israel.

miri, State Lands, usually agricultural, held in leasehold tenure for the purposes of cultivation.

mulk, property; in regard to land, that held in freehold tenure; in the Ottoman Empire usually within the confines or on the edge of towns or villages.

murfake, the second subdivision of *metruke*; land assigned *ab antiquo* to the inhabitants of a village or group of villages for their exclusive use.

Nizamiye Courts, Statute Courts; secular Courts created specially to apply the new *Tanzimat* codes; the prototypes of the Palestine-Israel Courts.

Şeyhül-Islâm, the titular head of the Ottoman religious hierarchy.

sanjak, an administrative division of the Ottoman Empire, roughly equivalent to a province.

sipahi, an Ottoman fief-holder, usually a cavalryman with military obligations. *Tanzimat*, the Ottoman period of legislative reform, generally dated 1839–79.

tapu, an early Ottoman fiscal institution; later the fee paid by feudal fief-holders to the State Treasury; finally, that paid for the enjoyment right or usufruct in *miri* generally.

tapu seneds, title deeds instituted for the holdership rights in *miri* after the land reforms of 1858–9.

Ticaret Meclisi, Commercial Council.

timar, a feudal fief.

Ulema, the Ottoman Religious Hierarchy and its members.

vezir, the Chief Minister of the Imperial Government.

ziamet, a military fief of larger size than the *timar*.

2. ARABIC

ahlī, family *waqf*, Egyptian usage (see also *dhurrī* for Palestine usage).

‘alīm (plural *‘ulama’*), a religious scholar or functionary.

amīriyya, State Lands of which the term *miri* is an Ottoman corruption.

barrānī, colloquial, “external,” meaning informal legal maneuvers outside the law per se.

bāitil, invalid or void; in contracts, carrying no legal effects.

bay‘ bi’l-wafā’, sale subject to the right of redemption; a primitive form of mortgage of dubious validity in Islamic law.

dhimmī, persons protected in exchange for paying a poll tax, usually Jews or Christians.

dhurrī, family *waqf*, Syrian usage.

diya, blood money.

farāgh bi’-wafā’, pledge subject to the right of redemption; a primitive form of mortgage of dubious validity in Islamic law.

fāsīd, in contracts, irregular or voidable; carrying legal effects, but not valid.

faskh, specifically judicial annulment in contrast to *ṭalāq* and *tafrīq*, repudiation and separation.

fatwā, an Islamic legal opinion delivered by a *muftī*.

fayʿ, in early Islam, conquered territories set aside in the manner of a *waqf* for the benefit of the Muslim Community as a whole (with *kharājī*, the root of the later Ottoman *miri*).

fiqh, the science of Islamic jurisprudence.

ḥadd, the fixed penalties in Islamic penal law for brigandage, theft, drunkenness, gambling, adultery, and apostasy.

ḥaḍāna, custody by the mother over minor children; originally related in some sense to the needs of suckling.

Ḥanafī, one of the four orthodox schools of Islamic law and the official school of the Ottoman Empire.

Ḥanbalī, one of the four orthodox schools of Islamic law.

ḥadīth, in Islamic law, a tradition; in its most telling form, ascribed to the Prophet. More generally, the whole body of extra-Koranic literature relating to law.

ḥawāla, transfer of debt.

ḥiyāl, legal devices generally coupled with *shurfūt* in contracts to circumvent the strict requirements of Islamic law.

ʿidda, the period observed by a woman immediately following her divorce or widowhood; varies in length according to the circumstances and the school.

ihyāʾ al-mawāt, the vivification of dead lands.

ijāb, in Islamic contracts, the offer usually followed by acceptance.

ijāra muʾajjala, the lease of land for a delayed payment.

ijāratayn, lease in *waqf*, that includes two payments, one fixed and one delayed.

iltizām, a lease for the purposes of gathering taxes, i.e., tax-farming.

imām, mosque functionary, prayer leader.

iqtāʿ, a leasehold grant for the purposes of cultivation.

istislāh, having concern for the public interest or the needs of the time.

jāʾiz, one of the five religious qualifications for acts, viz., permitted or unobjectionable.

kharāj, the poll tax paid by protected persons.

kharājī, land subject to the *kharāj*.

khatīb, mosque functionary, responsible for Friday sermon.

khayrī, *waqf* dedicated for charitable purposes, i.e., public, in contrast to private *waqf*.

khulʿ, divorce for a consideration, a variation of *ṭalāq*.

maḍbūt, the Ottoman term for *waqf* under the control of the Ministry of *Evkaḍ*, i.e., public *waqf*.

madhhab, school in Islamic law, one of the four acceptable bodies of opinions followed.

maʿdhūn, marriage registrar, employee of *Sharia* Courts.

maḥlūl, to become lawful or permitted; in Ottoman law, lands falling vacant either through a failure of heirs or cultivation.

mahjūra, deserted wife.

mahr, the bride price or dowry.

Mālikī, one of the four orthodox schools of law.

maʿmūr, public custodians of non-private *waqfs*.

maqṣid, intent in contracts, in contrast to *niyya* for religious duties.

maṣlaḥa, the principle of utility in Islamic jurisprudence, i.e., having regard for the Public interest or needs of the time.

mawāt, dead lands (in Palestine, *mewat*).

mazālim, courts of complaint, the only form of appeal in Islam beyond the Courts of the *qāḍīs*.

muʿadhdhin, mosque employee, responsible for calling to prayer.

muʿāmalāt, the area of Islamic law concerned with transactions or obligations, i.e., contract law.

muddat-safar, the period of a journey important for interrupting periods of prescription.

mufīī, a specialist in Islamic jurisprudence consulted in a formal manner for a legal opinion; see also *fatwā*.

mulḥaq, private *waqf* (in contrast to public ones); for the benefit of private persons only, usually family.

multazim, tax-farmer.

muqāṭaʿa, land held in leasehold via *iqṭāʿ*.

musaaqqafāt, *waqf* leased out for building purposes.

mustaghillāt, *waqf* leased out for the purposes of cultivation.

muʿa, temporary marriage (recognized in Shiʿa, but not Sunni, *fiqh*).

mutawallī, supervisor of private *waqf* (in contrast to the *maʾmūrs* of public *waqf*).

naḥaqa, maintenance.

nāshiza, rebellious, as in the case of the “rebellious wife.”

naẓama, root meaning to order or legislate, e.g., *Tanzimat*.

naẓar fiʿl-mazālim, investigation of complaints, a process, growing into the tribunals of the same name

niyya, intent in the performance of religious duties.

qabūl, In Islamic contracts, the acceptance generally following offer.

qādī, the judge in a *Sharia* Court, usually one to a local administrative unit.

qānūnī, legal or lawful in a secular sense; no particular significance for Islamic law.

qaşd at-tahlīl, literally “making lawful”; the device in Ḥanafī *fiqh* of using an intervening marriage after a threefold divorce.

qawā'id, principles of Islamic jurisprudence, in particular the 99 Maxims found at the beginning of the *Mecelle*.

qişās, retaliation.

Ramaḍān, the ninth Muslim month, that of the fast.

radd, the residue after distribution of an estate.

raqaba, title or ownership in land law.

ṣahīh, in *waqf*, validly dedicated; in contracts in general, valid and binding.

Shāfi'ī, one of the four orthodox schools of law.

Sharia, Islamic law according to its orthodox interpretation whether Sunni or Shi'a.

Shi'a, those in the Islamic world outside the four Sunni schools.

shuf'a, pre-emption.

shurūt, stipulations; the science of documents that grew up in the Islamic Middle Ages to circumvent the strict letter of the law despite a theoretical ban on written forms of evidence.

sijill, the ledger or case record of a *Sharia* Court.

siyāsa shar'iyya, the prerogative of the Islamic ruler to complete and administer the law within the grounds permitted him by *Sharia*.

tafrīq, judicial separation in contrast to *talāq* and *faskh*.

tafwīd, a variation of *talāq* in which the husband confers on the wife the right to divorce herself.

talāq, divorce in Islamic law, specifically unilateral divorce.

talāq bā'in, irrevocable divorce.

talāq rajci, revocable divorce.

taşarruf, usufruct or enjoyment rights in *miri* tenure.

talfiq, combining the doctrines of more than one legal school in one and the same subject matter (a favorite device of Islamic Modernists, considered reprehensible in Islamic law).

‘ulamā’, the Muslim religious establishment, usually *‘alīms*, *qāḍīs*, and *mufītīs*. *umma*, the Muslim community taken as a whole.

‘ushr, the yearly tithe due on agricultural land.

‘ushūrī, land subject to the *‘ushr*.

wā‘iz, preacher (mosque functionary).

wājib, one of the five religious qualifications for acts, viz., obligatory.

walī, in family law the guardian for the purposes of marriage.

waqf (plural *awqāf*), Muslim endowment, either for public, charitable, or private use.

wilāya, guardianship, exercised only by males in strict Islamic law (in contrast to *ḥaḍāna*).