

OTTOMAN *TAPU* TITLE DEEDS IN THE EIGHTEENTH AND NINETEENTH CENTURIES: ORIGIN, TYPOLOGY AND DIPLOMATICS*

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Abstract

Although the existence of the *tapu* is well known, their typology, formulary and structure have not been an object of detailed analysis. In this article, based on research undertaken in the Ottoman archive of the National Library of Bulgaria, I analyze eighteenth- and nineteenth-century Ottoman *tapu* title deeds. I argue that their 'classical' eighteenth- and nineteenth-century form is the outcome of the amalgamation of (1) receipts for payment of the *tapu* fee (*resm-i tapu*) and (2) records of land transfer. I also argue that the process of amalgamation started probably in the middle of the sixteenth century and continued until the second half of the seventeenth century.

Introduction

FOLLOWING THE DEMISE OF THE TOTALITARIAN REGIME in Bulgaria in 1989 and the subsequent land restitution, a number of people approached me for translations of Ottoman land title deeds (*tapu*). The holders of the title deeds hoped to reclaim their lands with the help of these documents, despite the fact that the title deeds were issued many years ago—between the 1860s and 1910—and by a state that no longer existed. Although I do not know whether they were successful or not, I was intrigued by the fact that one generation after another had preserved the *tapu* title deeds as proof of family landholdings. Motivated by my belief that scholars have not given adequate attention to *tapus*, I undertook a research on these documents.

'*Tapu*' is a familiar term for scholars of Ottoman land law and society. It is associated with the peculiarities of holding agricultural land in the Ottoman empire, i.e., the *miri* land regime.¹ In a broad sense, the term *tapu* is used to describe the general system of

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Note on transliteration: In the essay, I use modern Turkish for the spelling of Ottoman terms and names of Arabic origin as well as for the transliteration of Ottoman documents in the Appendix, i.e., no diacritical marks, except 'ayn' as an apostrophe in middle of names, e.g., Abussu'ud. An apostrophe is also used to separate proper names from the case suffix in the transliterations, e.g. *Petko 'nun*. Occasionally, if a term of Arabic origin is discussed in a pre-Ottoman context or the modern Turkish spelling differs substantially from its Arabic transliterated form, the latter form is given as well.

¹ The *miri* regime, i.e., state ownership of land, in the Ottoman empire is best described in the writings of Halil Inalcik. For a summary of his views, see *An Economic and Social History of the Ottoman Empire 1300-1914*, ed. H. Inalcik and D. Quataert (Cambridge 1994), 103-78 (henceforth *History*). See also Colin Imber, *Ebu's-su'ud: The Islamic Legal Tradition* (Edinburgh, 1997), 115-38. For a slightly different view, see J.R. Barnes, *An Introduction to Religious Foundations in the Ottoman Empire* (Leiden, 1986), 21-49. For a description of the *miri* regime from a Marxist materialist point of view, see Vera Moutafchieva, *Agrarian Relations in the Ottoman Empire in the 15th and 16th centuries* (New York, 1988).

peasant land tenure—the *tapu* system—in lands which the Ottoman law codes (*kanunnames*) specify as held by *tapu* (*tapulu* lands).² In this sense *tapu* is rightly regarded as ‘an Ottoman fiscal institution.’³ In a narrow sense, *tapu*, shorthand for *resm-i tapu*, designates the amount payable upon taking possession of a plot of land.⁴ Lastly, as shorthand for *tapuname* or *tapu senedi*, the word *tapu* defines the document—title deed—‘by which an inhabitant of the Ottoman empire could prove his right of usufruct (*hakk-ı tasarruf*) to the *miri* land in his possession.’⁵ Based on information contained in Ottoman *kanunnames* from the fifteenth and sixteenth centuries,⁶ scholars have determined who has the right to obtain a *tapu*, the legal rights and obligations of a *tapu*-holder vis-à-vis the state and its representatives, and other matters relating to the operation of the *tapu* system.⁷

Although the existence of the *tapu* title deeds is well known, scholars have not studied their form and structure, typology, changes over time, and the relationship between such changes and changes in land tenure.⁸ In this essay, I discuss the different types of *tapus* and their diplomatic features in the eighteenth and nineteenth centuries, along with Ottoman land law dealing with matters related to *tapus*. Using information contained in court records, *kanunnames* and some early documents at my disposal, I also discuss the origin and development of *tapus*. In my opinion, the refinement of Ottoman land law in the middle of the sixteenth century stimulated the consequent development of *tapus*. I argue that the ‘classical’ eighteenth- and nineteenth-century form of the *tapu* title deeds is the result of the amalgamation of two types of documents: receipts for payment of the *tapu* fee (*resm-i tapu*) and records of land transfer. I also argue that the amalgamation process began around the middle of the sixteenth century, and was completed only in the second half of the seventeenth century. Therefore, references in the scholarly literature to *tapu* as a title deed in the fifteenth and sixteenth centuries are not historically accurate.

Sources

One of the reasons for the scholarly neglect of *tapus* as documents is the paucity of sources. Prior to 1858, only one copy of a *tapu* was written and it was given to the peasant. Upon transfer of land, the old *tapu* was invalidated. It is thus not surprising that few *tapus* issued before the Land Code of 1858 have survived. These were preserved not

² See *History*, 110 and H. Inalcık, “Village, Peasant and Empire,” in idem, *The Middle East and the Balkans under the Ottoman Empire: essays on economy and society* (Bloomington, 1992), 143.

³ J. Schacht, *Introduction to Islamic Law* (Oxford, 1964), 90.

⁴ Suraiya Faroqhi, *EF*², s.v. “Tapu,” and Haim Gerber, *The Social Origins of the Modern Middle East* (Boulder, 1987), 22-24.

⁵ Faroqhi, “Tapu.” See also Bruce McGowan, *Economic Life in Ottoman Europe. Taxation, Trade and the Struggle for Land, 1600-1800* (Cambridge, 1981), 220, where *tapu* is described as a “deed-like land transfer document issued by *timar* holder.”

⁶ For published *kanunnames* from the fifteenth and sixteenth centuries, see Ö. L. Barkan, *XV. ve XVI. Asırlarda Osmanlı İmparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları, I: Kanunlar* (Istanbul, 1943). A new and more comprehensive collection of *kanunnames* is published in *Osmanlı Kanunnâmeleri ve Hukukî Tahlilleri*, ed. Ahmed Akgündüz (Istanbul, 1990).

⁷ See the literature cited in note 1.

⁸ Fani Milkova, *Pozemlenata sobstvenost v bulgarskite zemi prez 19 vek* (Sofia, 1970) and Jivko Stalev, “Notarialniat akt,” in *Godishnik na SU-UF* (Sofia, 1943) discuss the development of *tapu* in the nineteenth century. The similarity of older *tapus* to a contract of sale as drawn up in court records has only recently been noted—see *History*, 109.

in central archives but in private hands or in small collections in villages; only recently have state archives or smaller regional archives acquired extant documents.⁹ I have found only a handful of older *tapus* in the archive of the National Library of Bulgaria, most of them from the eighteenth and the first half of the nineteenth centuries.¹⁰ *Tapus* from the nineteenth century are more often found in the archives, since, following the Land Code of 1858, one copy of each *tapu* title deed was held in the Imperial Cadastral office (*Defterhane-i hakani*) and one copy in the provincial registry office. Consequently, the nineteenth-century *tapu* occasionally finds its way into scholarly publications.¹¹ For the present study I have examined, in addition to the published *tapus*, approximately 100 post-1858 *tapus*, including some early twentieth-century *tapus*, preserved in the archives of the National Library of Bulgaria¹² as well as in private hands.

All the documents that I examined come from the Balkans and more specifically from the territories of present-day Bulgaria, Romania, Eastern Serbia, Eastern Macedonia, Northern Greece and European Turkey. I believe that prior to 1858¹³ *tapu* title deeds were issued throughout the Balkans and Anatolia,¹⁴ and, perhaps, in those regions of Syria¹⁵ in which regions the *miri* regime was in place.¹⁶ To my knowledge, no *tapus* from the western part of the Balkans, Anatolia and Syria have been published. I realize that my conclusions about Ottoman *tapu* title deeds will remain limited in nature until such time as documents from these regions have come to light.

⁹ See, for example, the catalogue of Ottoman documents in the archive of the town of Belovo in the Rhodope mountains—E. Grozdanova, “Osmanoturski dokumenti of arhivnata zbirka na gr. Belovo za istoriyata na rodopskiya kraj,” in *Recueil du Rhodope V* (Sofia, 1983), 269-86—which includes twenty-two *tapus* from the eighteenth century. See also the catalogue of the archive of Ottoman documents in the Rila Monastery—D. Ihtchiev, *Turskite dokumenti na Rilskiya manstir* (Sofia, 1910)—which contains some 150 *tapus* from the eighteenth and the nineteenth centuries.

¹⁰ See National Library SS. Cyril and Methodious (NBKM), collections LV 11/12, BR 4/6, 73A/80, TCH 66/22.

¹¹ There are, for example, nine facsimiles of nineteenth-century *tapus* in Milkova, *Pozemlenata sobstvenost*, nine facsimiles in A. Velkov, *Vidove osmanoturski dokumenti: Prinost kam osmanoturskata diplomatika* (Sofia, 1986), four facsimiles in G. Galabov, “Po nyakoi vaprosi na turskoto feodalno zemevladenie,” *Izvestiya na Ikonomicheskaya institut* 9, 1-2 (1955) and one facsimile in M. Guboğlu, *Paleografia și diplomatia turco-osmana: Studici și album* (Bukuresti, 1959).

¹² See NBKM, collections 73A/81, SM 5/9, OAK 252/ 28, 191A/19, PD 2/117-118, TRN 37/66.

¹³ The Land Code of 1858 instituted the application of *tapu* title deeds in all Ottoman territories.

¹⁴ In her study of land transfers in central Anatolia, based on court records from the end of the sixteenth century, Suraiya Faroqhi found legal procedures relating to land transfers, one of the main applications of *tapu*, similar to those observed in the Balkans. See Suraiya Faroqhi, “Land transfer, Land disputes and *askeri* holdings in Ankara (1592-1600),” in *Mémorial Ömer Lûtfi Barkan* (Paris, 1980), 87-100.

¹⁵ Agricultural conditions similar to those in the Balkans and Anatolia, i.e. grain cultivation with dry farming, existed in parts of Syria and Iraq (*History*, 156). I thank Prof. Baber Johansen for informing me that the Syrian jurist Ibn ‘Abidin (*al-‘Uqûd al-durriyya*, vol. II) discusses the payment of the *tapu* fee and different questions associated with it, e.g., inheritance rights according to the *tapu* regime, the nature of the *tapu* fee, possession rights given by the payment of the *tapu* fee, etc.

¹⁶ The court records of eighteenth-century Lower Egypt point to peasant landholding not much different from that of the core Ottoman areas, see Kenneth Cuno, *The Pasha’s Peasants: Land, Society and Economy in Lower Egypt 1740-1858* (Cambridge, 1992). There is no indication, however, that a *tapu* regime, as it is known in the Balkans and Anatolia, was implemented in Egypt. I do not believe that *tapu* title deeds existed there.

Types of tapu title deeds

The pre-1858 *tapus* that I have examined are similar in their form and structure. A distinguishing feature of these documents, which were issued by local intermediaries, is the presence of textual variations. The Land code of 1858 was a milestone in the development of the *tapu* title deeds. By changing the fiscal relation of the peasants to the state from indirect tax collection—through intermediaries—to direct responsibility for payment of taxes, the Code brought about changes in the form and structure of the document. First, by centralizing the administrative procedure, the state acquired the prerogative to issue *tapus* through the Imperial Cadastral office (*Defterhane-i hakani*). Second, the introduction of printed forms into chancery practice eliminated textual variations. The appearance of grid-like documents in the 1860s changed the look of the *tapu* completely. Therefore, I distinguish two types of *tapus*—‘old type’ (issued before 1858) and ‘new type’ (issued after 1858).¹⁷

Tapu types according to land categories

When discussing the different types of *tapu*, it is important to keep in mind that the *tapu* system of land tenure reflected and regulated a particular peasant mode of production (*çift-hane*) which enabled the peasant farm (*çiftlik*) to be exploited in an autonomous and systematic fashion by peasant families (*hane*). This mode of production, in turn, is connected to the agricultural characteristics of land, and, for this reason, it transcended the categories of ownership used by Muslim jurists. Thus, the *tapu* system of land tenure could exist regardless of how the land of a particular area was designated by Ottoman jurists. Indeed, we find *tapus* issued for *miri*, *vakıf* and even *mülk* lands.

1. *Tapus* for *miri* lands

The *miri* lands prevailed in the land system of the Ottoman empire, and it might therefore be assumed that these were the most common type of *tapus*. As noted, prior to 1858, the *tapus* for *miri* lands were issued by intermediaries—*sipahi*, *mültezim* or another local administrator; after 1858, they were issued by the *Defterhane-i hakani*. The introduction of printed forms changed the graphical layout of the ‘new type’ *tapus* for *miri* land. The placement of the titles ‘*Arazi-i miriye*’ and ‘*Tapu senedi*’ under the sultan’s *tuğra* (the latter was a new element) clearly demonstrated that the document was for state lands. There were also some changes in the text of the document. The collection of a *tapu* fee by the person who issued the document was no longer mentioned. Instead, the document stipulated the regular payment of the tithe to the state, represented by a state official.

2. *Tapus* for *vakıf* land

In the ‘old type’ *tapus*, the only mark that distinguished *tapus* for *vakıf* land from those issued for *miri* land was mention of the *vakıf* to which the land belonged and of the fact that the *tapu* fee was collected on behalf of the *vakıf*. In the ‘new type’ *tapus*, at the top of

¹⁷ See Appendix: Documents Five and Six for examples of an ‘old type’ and a ‘new type’ *tapu*.

the document, under the sultan's *tuğra*, we find the title '[Issued] by the Ministry of Imperial *Vakıfs*' (*An canib-i nezaret-i evkaf-ı humayün*). As in *tapu* for *miri* land, the collection of *resm-i tapu* was replaced by the condition of paying the tithe to the *vakıf*. In the last quarter of the nineteenth century, the *Defterhane-i hakani* began to issue the *tapu* for *vakıf* lands. Consequently, the only difference between title deeds for *miri* and *vakıf* land was the mention of the *vakıf*'s title and the use of the word '*temessük*' instead of '*tapu*'.

2. *Tapu* for *mülk* land

Tapu were issued for land and other properties located within the boundaries of populated areas, which, according to Ottoman law, were considered private property (*mülk*): orchards, vineyards, vegetable gardens, houses and arable land up to half a *dönüm*. According to Vera Moutafchieva, this phenomenon relates to the state's desire to increase revenues.¹⁸ This is plausible, as is her conclusion that the issuance of *tapu* for *mülk* lands inevitably led to a blurring of the distinction between *mülk* and *miri* lands.¹⁹ However, one must also consider the fact that the *tapu* was the only legal proof that a peasant could produce if a *sipahi* or other official violated his rights, or in the event of a property dispute. One may even argue that it was in the interest of the peasant to hold a *tapu* for his farm and village property²⁰ because the document gave him the sense that the farm was his property.²¹

The Land Code of 1858 and, especially, the By-law for Issuing Certificates of Private Property of 1874, differentiated title deeds for *mülk* land from other *tapu* title deeds by emphasizing that the former applied to land held in private property. In such a document, one finds under the sultan's *tuğra* the title phrase 'Official document [issued] for the possession of private property' (*emlak tasarrufuna mahsus senedi resmidir*); and in the text one finds 'it is the private property of...' (*...malı ve mülkü olmuş olmakla*). And at the end of the document one finds, '...the current document was issued in order to prove the right to own [the land] in private property' (*mülkiyet zabt etmek üzere temliğini mübeyyin işbu sened ita kılındı*).

Tapu title deeds according to the reason of issuance

A *tapu* may be issued on several occasions: initial granting of land, inheritance, transfer of land, renewal of an old or lost document, indisputable possession of land for a period of ten years, and reclaiming of barren land.

¹⁸Moutafchieva, *Relations*, 5.

¹⁹Ibid. See also Gerber, *Origins*, 12.

²⁰For a similar conclusion with regard to peasants in Lebanon, see Wael B. Hallaq, "Model *Shurut* Works and the Dialectic of Doctrine and Practice," *Islamic Law and Society*, 2 (1995), 117.

²¹The numerous land disputes in the Balkans and Anatolia described in the legal as well as in the fictional literature of the period point to a strong sense of ownership. Clearly, Balkan and Anatolian peasants believed that the land belonged to them, not to the state or its representative. For a similar observation with regard to Russian peasants, see Richard Pipes, *Russia under the Old Regime* (London, 1974), 150-53.

1. *Tapu* for initial granting of land

Granting land through the instrument of *tapu* should be understood in the context of the Hanafi concept of ownership, which distinguishes between ownership of the substance (*rakabe*) and ownership of the usufruct (*tasarruf*). According to *fetvas*²² of the Ottoman jurist Abussu'ud (d. 1574), what was granted to the peasant was actually the usufruct or the 'right of use' of the land (*tasarruf*).²³ Abussu'ud regarded peasant use of land as a lease (*icare*) and the payment collected by the state representative (*resm-i tapu*) as rent paid in advance (*ücret-i muaccele*).²⁴

A *tapu* for the initial granting of land was issued when the state or the *vakıf*, which held formal title to the land (*rakabe*), granted 'vacant' (*mahlül*) or 'abandoned' (*muattal*) land (through its representative—*sipahi*, *mültezim* or *mütevelli*) to a peasant. The initial granting of land also occurred when a *tapu*-holder disappeared or died without heirs and close relatives who, according to the law, could claim the 'right of *tapu*' (*hakk-ı tapu*).²⁵ In such cases, anyone living in the area might be a prospective candidate.²⁶ He could request the vacant land by claiming 'right by virtue of residence' (*hakk-ı karar*)²⁷ and by paying a fee—*resm-i tapu*. Disinterested Muslims determined the amount of the *resm-i tapu*.²⁸ Although, the fee was formally limited to a maximum of one-year's income from the land after the land tax,²⁹ there are reasons to believe that the *resm-i tapu* reflected the market value of the land described in the *tapu*.³⁰ The law did not allow giving land to someone not residing in the village.³¹ The *sipahi* also had the right to take the land from a peasant who did not cultivate it for more than three years and to give it to someone else or to demand another *tapu* fee from the previous holder.³²

²² These *fetvas*, which were included in the *kanunnames*, greatly influenced the subsequent development of Ottoman land law. For the text of the most important *fetvas* concerning land law, see "Arazi ile Alâkali Ebüssu'ud ve İbn-i Kemal'in Fetvâları" in Akgündüz, *Kanunnâmeleri*, vol. 5, 78-84 (henceforth Abussu'ud-Akgündüz). For *fetvas* that became part of *kanunnames*, see "Budin Kanunu" and "Üsküb and Selanik Kanunu" in Barkan, *Kanunlar*, 296-302. On the impact of Abussu'ud's legal opinions, see Imber, *Ebu's-su'ud*; Inalcık, "Islamization of Ottoman laws on Land and Land Tax," in *Festgabe an Josef Matuz*, ed. Christa Fragner and Klaus Schwarz (Berlin, 1992), 101-19.

²³ Abussu'ud-Akgündüz, 79.

²⁴ Abussu'ud-Akgündüz, 82.

²⁵ See *Inheritance of Land* below.

²⁶ See the facsimile edition of *Kanunname-i Cedid*, published in *Turski izvori za istoriata na pravoto v bulgarskite zemi*, ed. G. Galabov, vol. 1 (Sofia, 1961), f. 57b (henceforth *Kanunname-i Cedid-Galabov*).

²⁷ I believe that Imber, *Ebu's-su'ud*, 130 wrongly translates this term as 'right of settlement.' This translation does not convey the proper meaning of the term, to wit, 'entitlement, based on the premise of living in the same area.'

²⁸ See "Kanun-i Tapu," in Akgündüz, *Kanunnâmeleri*, vol. 6, 463.

²⁹ Faroqhi, "Tapu."

³⁰ Although the usual range of *resm-i tapu* was 300-500 *akçes*, in the *Kanunname-i Cedid-Galabov*, 55b, it is mentioned that *resm-i tapu* for the arable land surrounding Istanbul was 12-13,000 *akçes* and might be as high as 50,000 *akçes*. Gerber (*Origins*, 22) states that *resm-i tapu* was in fact the market value of the land. It is not clear how he arrived at this conclusion.

³¹ See *Kanunname-i Cedid-Galabov*, 58a. Article 45 and 59:9 of the Land Code of 1858 make a similar stipulation in this respect. In practice, this legal stipulation was often disregarded. See, for example, Appendix: Documents Four and Five.

³² See *Kanunname-i Cedid-Galabov*, 48b and Articles 84-85 of the Land Code of 1858.

2. *Tapu* issued because of inheritance of land

The inheritance of *tapu*-held land is treated in detail by Ottoman *kanunnames*. Prior to the Land Code of 1858, only sons³³ had the ‘right of direct inheritance’ (*hakk-ı intikal*) of *tapulu* land,³⁴ a clear deviation from the Islamic rules of inheritance. The reason for this deviation was the desire to prevent the disintegration of the family farm and the alteration of the mode of production.³⁵

If the holder of the land did not have a son, preference was given to brothers, daughters, sisters, fathers, mothers and co-landowners, on the condition that they pay the *tapu* fee (*hakk-ı tapu*).³⁶ When nobody claimed *hakk-ı tapu*, the land was designated as ‘vacant’ and given to another person of the same village (see above).

The Land Code of 1858 extended the line of heirs having the right of direct inheritance (*hakk-ı intikal*) to daughters, fathers and mothers. It also extended the line of those who might exercise the right of paying the *tapu* fee (*hakk-ı tapu*) to spouses, grandchildren, and maternal uncles and aunts.³⁷ However, a ‘By-law for the *Tapu* Title Deeds’ of 1858 stipulated that all heirs, even sons, are required to obtain a *tapu* title deed and pay an administrative fee, equal to five percent of the value of the land.³⁸ In addition, three *guruş* were paid for the paper-form of the title deed³⁹ and, from 1860 onwards, one *guruş* to the scribe for writing the document.⁴⁰

3. *Tapu* issued because of transfer of land

*Tapu*s issued for transfer of land were formulated as contracts of sale.⁴¹ These *tapu*s included a detailed description of the contracting parties and the object of the transaction,

³³ However, land could not pass to a son converted to Islam (see “Bosna Sancağı Kanunnâmesi,” in Akgündüz, *Kanunnâmeleri*, 463 and the Land Code of 1858, Article 109) or to a son who had killed his father (*Kanunname-i Cedid*-Galabov, 48b and the Land Code of 1858, Article 108).

³⁴ In this sense, the Ottoman law compares *tapulu* land to land held as private property (*mülk*). For example, in *Kanunname-i Cedid*-Galabov, 57a-57b, we read: ‘In order to hold a deceased person’s lands and meadows without any charge, to his son is given a judicial decree. A *sipahi* cannot tell [the son], “You don’t have a document [for possession].” [Such a document] is not even needed. The son does not need [to pay] the *tapu* fee. [*The land*] is inherited [*in a manner*] similar to land which is private property’ [italics mine]. (*Fevt olan kimesnenin yerlerini ve çayırlerini oğlu mecanen zabt eylemek üzere hükm-i şerif virilür sipahi elinde temessük yoktur diyemez ve lazım dahi değildir oğluna tapu olmaz sayr emlak gibi intikal eder*).

³⁵ In “Üsküb ve Selânik Kanunu” in Barkan, *Kanunlar*, 299, we read: ‘In its essence [the state land], is also *harac* [land]. However, when it is given in full ownership and its owners die, it is divided among many heirs. So, [when] after the division a small piece [of land] remains for each one, it is of great difficulty to assess and to levy the land tax on the shares of each heir in proportion to the land in his possession. In practice, this becomes impossible. For this reason absolute ownership of the above-mentioned land is kept for the Public Treasury’ (*Aslı haracıyedir. Lâkin sahiblerine temlik olunduğı takdirce fevt olub verese-i kesire mabeynlerinde taksirn olunub her birine bir cüz’i kit’a degüb her birinin hissesine göre haraçları tevzi’ ve ta’yin olunmakda kemâl-i su’ubet ve işkâl olub belki ‘âdeten muhal olmağın rakabe-i arazi Beytülmal-i müslimin için alıkonulub*).

³⁶ *Kanunname-i Cedid*-Galabov, 48b.

³⁷ Land Code of 1858, Articles 54-55 and 59:1-7.

³⁸ ‘By-law for the *Tapu* Title Deeds’ (henceforth ‘By-law’), Articles 6, 7 and 8.

³⁹ ‘By-law,’ Article 9.

⁴⁰ ‘Instructions about the *Tapu* Title Deeds for Holding of State Lands’ of 1860, Article 3.

⁴¹ On Islamic documents of sale, see Jeanette Wakin, *The Function of Documents in Islamic Law: The Chapters on Sales from Tahawi’s Kitab al-Shurut al-Kabir* (Albany, 1972), 31-70, and Geoffrey Khan,

the amount of the transaction, the declaration of free will of the seller, the offer (*icab*) and the acceptance (*kabul*), essential in Islamic law.⁴² However, what was ‘sold,’ according to Abussu’ud, was not the land but the ‘right by virtue of residence’ (*hakk-ı karar*), which, being a benefit, could only be transferred and only with the permission of the *sipahi*.⁴³ For this action, Abussu’ud used the term *tefviz* (Ar. *tafwid*) ‘delegation’. The omission of sale terms in documents of land transfer left the legal status of *miri* land unaltered. As the available *tapus*⁴⁴ and court documents⁴⁵ show, the implementation of this legal terminology was successful. In reality, however, the peasants regarded their agricultural land as a commodity⁴⁶ and the right of transfer as a way of accomplishing ‘sale’ transactions.

The Land Code of 1858 liberalized the rules of land transfer. Although the state still held formal title to the land, a land transfer was regarded entirely as a matter of choice of the landholder, and no one was to interfere with him as long as the transaction was registered and the five-percent fee paid.⁴⁷

4. *Tapus* issued because of renewal or loss of the old document

Prior to the nineteenth century, Ottoman land law did not require renewal of *tapus*. *Tapus* began to be renewed after 1839, when peasant tax obligations were transferred to the state, and after the implementation of the Land Code of 1858. The latter introduced the ‘new type’ *tapus* and made the sultan’s *tuğra* mandatory for the validity of the document (the *tuğra* was not present in the ‘old type’ *tapus*).⁴⁸

5. *Tapus* issued because of indisputable possession of land for ten years

According to the *kanunnames*, land claims expired after a maximum of fifteen years. The Land Code of 1858⁴⁹ changed that period to ten years, after which the person using the land could obtain a title deed.

6. *Tapus* issued for reclaimed barren land

The *Kanunname-i Cedid* required that if barren land (*mevat*) was brought under cultivation, the cultivator must pay the *resm-i tapu*.⁵⁰ If not, the land would be offered to someone else.⁵¹ The Land Code of 1858 was more favorable to those who decided to reclaim barren land. It stipulated that if someone decided to develop barren land, he could obtain a *tapu* title deed by paying only the cost of the *tapu*-form—three *guruş*; and it

Arabic Legal and Administrative Documents in the Cambridge Genizah Collections (Cambridge, 1993), 7-55. For a short discussion of the *tapu* as a contract of sale, see *History*, 109.

⁴² Schacht, *Introduction*, 22.

⁴³ “Üsküb ve Selânik Kanunu,” in Barkan, *Kanunlar*, 299.

⁴⁴ See Appendix: Document Five.

⁴⁵ See Appendix: Document Four.

⁴⁶ Gerber, *Origins*, 24.

⁴⁷ See the Land Code of 1858, Article 2; ‘By-law,’ Articles 2-8.

⁴⁸ ‘By-law,’ Article 11.

⁴⁹ Land Code of 1858, Articles 77 and 78.

⁵⁰ *Kanunname-i Cedid*-Galabov, 55a-56a.

⁵¹ *Kanunname-i Cedid*-Galabov, 56a.

granted such a person a tax exemption for one or two years, depending on the condition of the land.⁵² Furthermore, a loophole in the law allowed a person reclaiming barren land to claim the land after ten years of use, during which time no taxes were paid, and then to receive a title deed for a nominal cost.⁵³

Temporary and permanent Tapus

Prior to 1858, *tapu* title deeds were issued locally and they remained legally valid so long as land did not change hands. After 1858, however, several months might pass before the landholder received a *tapu*, due to the complicated procedure and the imperfect methods of communication. So that he might exercise his rights during this time, temporary title deeds (*ilmühaber*) were introduced. The temporary title deed was valid until the arrival of the permanent document.⁵⁴ The temporary title deeds had a grid-like form and they were thus referred to as *ilmühaber cedveli* (*ilmühaber* grid). The main text of a temporary *tapu* read as follows:

Until the preparation of a *tapu* title deed by the Imperial Cadastral Office for the possession of ...[type of landholding]... described above, the current temporary certificate was issued by the provincial chancery of ...[name of province]... to verify that a permission is given to the above-mentioned ...[name]... to possess [the landholding]. (*Balada muharrer bir kuta... tasarrufu için defterhane-i amireden ita olunacak tapu senedinin vuruduna değin merkum... tasarrufuna izin verildiğini müşir... defter-i hakani idaresinden işbu muvakkat ilmühaber ita olundu*).⁵⁵

The landholder was referred to as ‘[he] who will be the possessor’ (*mutasarruf olacak kimse*), i.e., prior to receipt of the permanent *tapu* title deed he was not considered as having legally entered into possession of the land. Temporary certificates were issued for *miri*, *mülk* and *vakıf* lands.

Form and Structure of the Tapu

Ottoman Turkish allows for the attachment of an almost unlimited number of subordinate clauses to the main clause, a practice developed to its utmost in the Ottoman chancery. The text of a *tapu* usually consists of one or two very long sentences. Thus, I find it appropriate to analyze the *tapu* according to the syntactic structure and the semantic links between the components of the document, rather than their actual consecutive order.

Introductory protocol

1. ‘*Hüve*’

The introductory protocol of a *tapu* begins with the so-called ‘*hüve*’ (Ar. *huwa*)—He, that is, God—which is placed at the top of the document. It is the basic form of the much longer invocations found in other kinds of Ottoman documents.⁵⁶

⁵² Land Code of 1858, Article 103; ‘By-law,’ Article 12.

⁵³ Land Code of 1858, Article 78.

⁵⁴ ‘By-law,’ Article 21.

⁵⁵ NBKM, TRN 37\66, f. 1.

⁵⁶ See Nedkov, *Osmanoturkska diplomatika i paleografija*, vol. 1 (Sofia, 1966), 127 and J. Reychman and A. Zajaczkovski, *Handbook of Ottoman-Turkish Diplomacy* (Oxford, 1968), 140.

2. Introductory formula

This is usually a short sentence introducing the content, e.g., ‘the reason for writing the document is as follows’ (*vech-i tahrir-i huruf oldur ki*). It is always the first line of the text.

Content

3. Identification of the landholder

The name of the person possessing the land described in the document is usually the grammatical subject of the text. The landholder is specified by his given name, by that of his father and sometimes by nickname as well. The word *zimmi* (Ar. *dhimmi*) ‘non-Muslim subject’ is used after Christian names, while after Muslim names we find the words *kimesne* ‘person,’ *aga*, (a term of respect), or a title. The Persian word *nam* ‘name, by name’ serves as a conjunction between the term *zimmi* and the name of the person. The formula *karye-i mezbur sakinlerinden* ‘from the inhabitants of the above-mentioned village’ indicates the residence of the person.

4. Identification of the landholding

4.1. *Specification of the landholding*

This is the next element, in terms of importance, in the structure of the document. The landholding is specified according to its kind: cultivated field (*tarla*), meadow (*çayır*), vineyard (*bağ*), garden (*bağçe*), house (*hane*), etc. In some cases, the document describes the landholding only as ‘a quantity of land’ (*bir mikdar arazi*); in others, an additional characteristic of the landholding is mentioned, e.g., ‘the future site of a mill, now barren meadow’ (*hali çayır değirmen olunacak*).⁵⁷ The number of shares (*kita*, *parça*) held is always specified.

These two principal components, ‘landholder’ and ‘landholding’—the semantic core of the text—are usually in immediate proximity. When the landholding is mentioned apart from the landholder’s name,⁵⁸ the repetition of the former immediately before the latter preserves the logical connection ‘landholding’—‘landholder.’ The two are connected in different ways, mostly with the help of the Arabic verbal noun *tasarruf* ‘right of use’ or the active participle *mutasarruf* ‘user, possessor’ and by the use of participles formed from the Turkish verbs *olmak* or *imek* ‘to be.’ A typical rendering of the two elements would be: ‘type of landholding’—*mutasarruf olan*—‘name of landholder’—*nam zimmi*.

4.2. *Boundaries*

The boundaries of the landholding are strictly delineated. A *tapu* specifies the adjacent properties and their landowners. Neighbors are usually referred to by personal names, only rarely by nickname or profession. In some documents we find the formula *işbu*

⁵⁷ NBKM, 73/80A.

⁵⁸ Graphically, the name appears towards the middle of the text.

maalümat el-hudud or its variant *maalümdur el-hudud* ‘[with] these boundaries as they are known’ as a formal link between the ‘boundaries’ component and the other characteristics of the landholding. The adjacent properties are introduced with the help of the phrase *bir taraf* ‘[on] one side.’ Sometimes they are listed seriatim, in which case the word *tarafı* ‘its boundaries’ is mentioned only at the beginning of the list. Often, the document mentions the names of the neighbors without mentioning the types of their properties. The formula *bu hududlar ile mahdud ve mumtaz* ‘enclosed and divided [from the other properties] by these boundaries’ or, frequently, the shorter forms *ile mahdud ve mumtaz olan* and *mahdud olan* ‘bordered [by]/[with] boundaries of’), accomplish the connection between the ‘boundaries’ element and the main clause.

4.3. Geographical location

This element specifies the exact geographical location of the landholding, listing in descending order: the larger administrative unit (*vilayet, sancak, kaza, nahiye*), the town (*kasaba*) or village (*karye*), and finally, the neighborhood (*mahalle*) or landholding site (*mahall*). Typically, the location of the landholding is identified by the names of the *kaza*, the village and the landholding site. Rarely is the name of the village mentioned exclusively. After the name of the landholding site, we find the formula *demekle maruf nam mahallde* ‘in the place known as....’

There were many ways to accomplish the grammatical and logical connection between these names. I observed only a few *tapus* in which the names of the administrative units are listed without any grammatical link, or only with the locative case as a grammatical link. After the first and most general term (e.g., *kaza, sancak*), it is customary to use the Arabic active participle *vaki* ‘lying, situated,’ which commands the locative case, e.g., *Rumelinde vaki Izladi kazası*. Another Arabic participle, *tabi* ‘dependent, attached,’ commanding the dative, completes the grammatical connection between a village and a *kaza*. The last link is between the name of the village and the site. As such, I observed most often the formulas: *karyesi toprağında... nam mahallde* ‘in the place known as...’ and *karyesi arazisinde... nam mahallde* ‘in the vicinity of the village of...’ The connection of the ‘location’ element with the main clause is accomplished by the locative case of the term ‘*mahall*’—the last word of the element. In some *tapus*, the participle *kain* ‘existing, situated’ is added to ‘*mahall*.’

In a *tapu* issued for *vakıf* land, the name of *vakıf*’s founder is also part of the ‘location’ element. Since the person who established the *vakıf* usually is no longer alive, the adjectives *merhum* and *makfur* ‘deceased, late’ are attached to his name. The place of burial may be mentioned as well, e.g., ‘buried near the Great Aya Sofya [mosque], in the capital’ (*Asitane-i aliyede Aya Sofya-i kebir kurbunda medfun*).⁵⁹ The titles of the person, the attribute ‘His Excellence’ (*hazretleri*) and the benediction ‘may he rest in peace’ (*tabe serrahu*) follow the name. The *vakıf* is usually mentioned at the very beginning of the text but it is logically connected to the name of the village where the landholding is located. The allocative case accomplishes the grammatical link between the two, e.g., *evkaf-ı şeriflerinden... karyesi*.

⁵⁹ NBKM, LV 11/12, f. 10.

4.4. *Quantitative characteristic*

The amount of land is an important element that is usually mentioned in *tapu*. The figure is stated before or after the listing of the adjacent properties, or immediately before specifying the type of landholding. The ‘quantity’ element is not connected by grammatical means to the other structural elements of the *tapu*. The connection is logical. The measurement units most often used are *dönüm*,⁶⁰ *evlek* (one-fourth of a *dönüm*) and *arşin* (1/1600 of a *dönüm*). Sometimes we find descriptive methods of measurement, e.g., the quantity of grain needed to sow a particular plot of land. The figures are always spelled out and always in Turkish. I did not encounter Arabic numerals used for the quantity of land. The Arabic adverb *tahminen* ‘approximately’ usually precedes the type and quantity of the measurement unit, while the word *mikdar* ‘amount’ follows it. Typically, the structure of the ‘quantity’ element is: *tahminen*—‘numeral’—‘measurement unit’—*mikdari*.

4. Information about the issuer of the *tapu*

The *tapu* usually mentions, in addition to the landholder, the person who issued the document. In my opinion, the mention of the official demonstrates the formal right of the state to the land. The ‘information about the issuer’ element consists of two parts: one at the beginning of the text, emphasizing the personality of the official who issues the *tapu* and one towards its end, emphasizing his control over the circulation of land.

5.1. The first part, which usually follows the introductory protocol, informs us about the administrative authority of the *tapu*’s issuer. It begins with a formula specifying the year in which the issuer exercised his authority. The year is introduced by the pronoun *işbu* (this, current) and followed by the adjective *mahsuben* (counted)—*işbu* ...[year]...*mahsuben*. Then another formula specifies the grounds of his authority. Reflecting the prevailing share of tax-farms in the eighteenth and nineteenth centuries, in most *tapus* we find the formula *der uhde-i iltizamımızda* ‘[since this is in the area] I undertook as a tax-farm’ with almost no variations. If the *tapu*’s issuer is a *sipahi*, the formula is *ba-irade-i padişah ile mutasarruf olduğumuz timarımız kuralarından* ‘[since this is] one of the villages of my *timar*, which I hold by an imperial decree.’ Occasionally, we find ‘the grounds of authority’ formula later in the text.

5.2. The second part of the element occurs towards the end of *tapu*. It refers to the personality of the issuer, and, more specifically, to his post. It begins with the phrase *bizler dahi* ‘and we’ (the plural form of the personal pronoun expressing respect). Then, the post of the official and the phrase *olduğumuz hesabıyla* ‘since/because I am’ follow. Sometimes the entire element is symbolically represented only by the formula *bizler dahi*. The element, however, does not mention the name of the *tapu*’s issuer. We can find his name in the signature or in the seal certifying the document.

⁶⁰One *dönüm* varied between 1200-1500 sq. m. in the period under consideration. See Anton Minkov, “Mernata edinitsa za povarhnost *dönüm* v administrativno-finansovata praktika na osmanskata imperia (XV-XXv.),” *Istoricheski Pregled*, 12 (1991), 50.

5. Reason for issuing the *tapu*

As noted, the reasons for the issuance of a *tapu* included initial granting of land, renewal of an old or lost *tapu*, indisputable possession for ten years, inheritance, transfer of the landholding, and reclaiming of barren land.

6.1. Initial granting of land

In *tapus* of this nature, we find the land characterized as vacant (*mahlül*) or abandoned (*muattal*) and the formula *müceddeden tefviz ve ihale kılınmış* ‘granted and invested anew.’ In most *tapus*, the mere presence of the word *müceddeden* ‘anew’ indicates the reason for issuance. The document may also mention the intention of the new landholder with regard to use the land, e.g. to build a vineyard shack and a quarry (*bağ inşasına ve taşı ocağı küşad eylemek*),⁶¹ to build a mill (*değirmen esbab bina eylemek*),⁶² to turn it into a cultivated field’ (*tarla etmek*).⁶³

6.2. Inheritance of land

The distinctive formula of *tapus* issued because of inheritance of land is: *mutasarrufu... vefatı vuku ile... intikal etmiş olduğundan* ‘because the landholder... of... has passed away, [the land] was inherited by....’

6.3. Indisputable possession of land for ten years

This reason for the issuance of a *tapu* is indicated in the text with the formula: *on seneden berü yedine senedi olmayarak bila niza zabt ve tasarruf etmiş olduğu tebeyyün ederek* ‘declaring that, without having a document, [he] indisputably has held and used [the land] for ten years.’

6.4. Renewal or loss of document

In the text of renewed *tapus*, we find the formula *atik temessüğünü tebdili lâzım gelmiş olduğundan* ‘because it was necessary to renew his old title deed.’ In the case of a lost *tapu*, we find the formula *yedine olan temessüğünü zayı etmiş olmakla* ‘because his title deed was lost.’

6.5. Transfer of land

In texts of *tapus* issued because of land transfer, we usually find the formula: *mukabelesine kasr-i ferag ve tefviz edüb ol dahi tefvizi kabul* ‘for the amount of... cedes and delegates [his landholding rights] to... who agrees with [the conditions of] the transfer.’ This formula follows the type of landholding and the name of the landowner (if there was a previous landowner), or it is mentioned between the two (when someone requested free land). In *tapus* issued because of a land transfer, the name of the buyer (the new landholder) is also central to the structure of the document, together with the name of the seller (the former landholder) and the identification of the landholding (now the buyer’s land). Typically, the document stipulates that the previous landholder, of his own free will (*kendi hüsn-i rızasıyla*), withdraws [his landholding rights] and transfers [them]

⁶¹ NBKM, TCH 66/22, f. 2.

⁶² NBKM, BR 4/6, f. 1.

⁶³ NBKM, LV 11/12, f. 6.

completely (*tamamen ferag ve kesr-i yed edüb*). The attitude of the buyer towards the transfer is expressed by the phrase: *ol dahi tefvizi kabul edüb* ‘and he accepts the transfer.’ Transfer of landholding could be also effected without a payment of money (*meccanen ferag etmiş*). In *tapu* issued because of a land transfer, we find two more elements: ‘value of the landholding’ and ‘payment of the price.’

7. Value of the landholding

The monetary values listed in *tapu* are expressed in Ottoman currency, i.e., *guruş* or *akçe*. The adverb *yalnız* ‘exactly’ introduces the quantity of the monetary value, the latter always spelled out in Turkish. The figure is followed by the word *mukabelesine* ‘for the amount of.’ The ‘value’ element usually occurs after the name of the new landholder and before mentioning the transaction, e.g., *Solo Rasko... kendi hüsn-i rızasıyla Pelo Isvyatko... otuz guruş mukabelesine furuht edüb* ‘Solo [Tsolo] Rasko...of his own free will sells [his landholding rights] to Pelo Isvyatko for the amount of thirty *guruş*.’⁶⁴

8. Payment of the price

Typically, after the mention of the transfer or the ‘acceptance’ of the transaction by the buyer we read: ‘the above-mentioned amount was paid in full’ (*semen-i maalümesi tamamen ahz edüb*). This ‘payment of the price’ statement is an important element in the accomplishment of the transfer. It completes one of the legal conditions of the transaction (the other is the payment of the *tapu* fee).

9. Declaration that the new landholder wants to pay the *tapu* fee

The formula ‘*tapusuna talib ve ragıb olup*’ demonstrates the free will of the person, because, from this point on, he becomes responsible for paying land taxes to the state. It literally means ‘requested the *tapu* of [the landholding],’ which I take to mean ‘wished [to pay] the *tapu* [fee] of [the landholding],’ although it sounds like ‘requested the title of the land’, i.e., the *tapu* portion of the title. In other words, in this formula, the term *tapu* carries the notion of something characteristic for the essence of the landholding. The formula occurs towards the end of the text and it is connected logically with the name of the new landholder. This element also demonstrates to a certain extent the control of the official, i.e., of the state, over land circulation. A phrase often added to this element is *tarafımızdan* ‘from me,’ i.e., ‘[...requested] from me’ or *tarafımıza gelüb* ‘came to me and [requested].’

10. Statement of landholding rights

The formula *zabt-ı tasarrufu için* ‘to be able to hold the possession [of the land]’ points simultaneously to landholding rights and to the reason for paying the *tapu*. In my opinion, the formula implies that without the payment of the *tapu* fee the holding of the land is illegal. This element is closely connected to the previous one—*zabt-ı tasarrufu için*

⁶⁴ NBKM, LV 11/12, f. 10.

tarafımızdan tapusuna talib ve ragıb olup ‘requested from me to pay the *tapu* fee for [the land] in order to hold the possession of it.’

11. Declaration of the official that the *tapu* fee is collected

As noted, the most important step in entering the possession of the land is the payment of the initial fee (*resm-i tapu*) regarded by Ottoman land law as rent paid in advance. In *tapus*, a statement that the *tapu* fee has been collected and the legal grounds for the collection follows the statement of the landholder’s willingness to pay the fee and the reason for that. The formula is *kanun-i kadim üzere resm-i tapusun alub* ‘according to the ancient law the *tapu* fee was collected.’ *Kanun-i padishah üzere* ‘according to the law of the Padishah’ sometimes replaces *kanun-i kadim üzere*.

12. Demonstration of *tapu*’s issuance

After all legal conditions for the transfer or the granting of land are completed, the new landholder is entitled to receive a *tapu*. The act of issuing the *tapu* document is demonstrated by the formula *işbu tapu ita olundu* or its longer variant *işbu memhur tapu... yedine ita olundu* ‘the current sealed *tapu* was handed personally to....’ The connection between the issuance of the document and the payment of the *tapu* fee makes the document a receipt for the *tapu* fee. In some documents the word *temessük*,⁶⁵ which in the Ottoman chancery and legal practice denotes a document for receipt of money, is used instead of *tapu* or *tapuname*. Occasionally, we encounter the term *tapu temessüğü*⁶⁶ ‘a receipt for payment of *tapu* fee.’

13. Guarantee of the rights

At the very end of the text, we usually read ‘no one on my side or on the side of anyone else can disturb him and violate [his landholding rights]’ (*tarafımızdan ve taraf-ı ahirden mani ve mezahim olunmaya*). The function of this formula is close to that of a ‘sanction’ (*tehdit*) in a sultan’s document. It guarantees the stability of landholding rights by forbidding any intervention or violation. What is guaranteed by the formula is the peasant’s independence in the organization of production. He provides the means of production—the ox, the plough and the seeds—and cultivates the land. He does not owe anybody any labor service other than that ordained by law. No one may exploit his labor without compensation. In this sense, the peasant is free and autonomous.⁶⁷ Sometimes, to emphasize the legal power of the document, the phrase *gerektir ki* ‘it is necessary that’ is added as a link with the previous element. The function of the latter phrase is similar to that of ‘corroboration’ in a sultan’s document.

⁶⁵ Vera Moutafchieva, *Relations*, 161, states that ‘*temessük*’ is the term used for *tapu* title deeds issued for *vakıf* land. This assertion is not confirmed from the documents I have examined. See for example NBKM LV11\12, f. 6 and 9, identified as ‘*tapuname*’ and ‘*tapu*,’ respectively. See below for a discussion of the use of the term ‘*temessük*.’

⁶⁶ See NBKM, BR 4\6.

⁶⁷ Inalcık, “Village,” 143.

*Final protocol*14. *Date*

The date is written at the end of a *tapu*, after the contents, in some cases on a separate line. Usually the date is connected to the text with the Arabic adverb *tahriren* ‘written’ and the conjunction *fi* ‘in.’

15. Validation of the document

Until the nineteenth century, *tapus* were validated by the signature of the issuer. The signatures are placed on the bottom left-hand side of the document. We find seals of the issuer on the back of *tapus*. In documents from the end of the eighteenth and the beginning of the nineteenth centuries, seals begin to appear on the front of the documents. In addition to personal seals, we find official seals as well.

16. Witnesses

In a few *tapus* issued in the central-north foothills of the Balkan mountain (Teteven)⁶⁸ and the southwest mountainous part of Bulgaria (Kustendil),⁶⁹ I observed witnesses’ names in the right-hand margin (*der kenar*) of the document. As an element in the legalization of the *tapu*, they should be considered as an element of the final protocol. Because the documents come from areas with a majority Christian population, the names of the witnesses are mostly Christian.⁷⁰

I regard the existence (or perhaps the non-existence) of witnesses’ names in *tapus* as a regional variation. The presence of witnesses’ names points to the connection of *tapus* with court records, in which the presence of witnesses’ names is mandatory.

17. *Vesselâm*

As a final element in some *tapus*, we find the interjection ‘*vesselâm*’ ‘and that is the end of the matter.’ It completes the document with a kind of ‘declaration’ that expresses the irreversibility of the fact, i.e., the coming into possession of the landholding.

18. Notes

Because the documents discussed here come from predominantly Christian and Slavic speaking areas, very often one finds a note in the native language of the landholder on the back of the *tapu*.⁷¹ We usually find in these notes the name of the landholder, the plot of land to which the document refers and how much was paid for the *tapu* fee or for the transfer (if a transfer of land is the reason of issue).

⁶⁸ See NBKM, collection LV 11\12.

⁶⁹ Two documents from a private collection.

⁷⁰ According to Islamic law, a *zimmi* can testify in matters concerning another *zimmi*, see Schacht, *Introduction*, 132.

⁷¹ For the same observation, see Grozdanova, “Documenti,” 269.

Notes on the form and structure of 'new type' tapu

The 'new type' *tapu* preserves the basic structure of 'old type' *tapu*. Nevertheless, because of the centralization of their issuance, the 'new type' *tapu* undergoes changes. The most noticeable change is the introduction of printed forms containing blank spaces for names and other information. In the introductory protocol, the changes are the presence of the sultan's *tuğra*⁷² instead of *hüve* and the use of titles specifying the type of land described in the document.⁷³

In the text, the introductory sentence is changed to *sebeb-i tasdir-i tevki-i humayün oldur ki* 'the reason for issuing the imperial document is as follows.' A possible variant is *sebeb-i tahrir-i sened oldur ki*. Since the state issued the *tapus* after 1858, an element that demonstrates the direct control of the state replaces the 'information about the issuer of the document' element. The new element consists of two parts: one at the beginning of the document and one at its end. The first part—*Defterhane-i hakaniye vurud eden zirde numru ve şehri muharrer defterden müsteban oluşu vechle* 'according to the numbered and dated register, as indicated below, received in the Imperial Cadastral Office'—informs us about the procedure for issuing the document. Another variant is *vilayeti defter-i hakani müdürlüğünün be-mazbata-i vilayet vurud eden memhur jurnalında muharrer olduğu vechle* 'according to the information in the sealed register, received with a provincial protocol in the Cadastral Bureau of the province of....' The second part—*be her sene öşr-i şeriyesini memuruna eda etmek üzere* '[on the condition] that he pays his tithe to the [appropriate] officer every year'—states the requirement that the landholder is obligated to pay his taxes to a state officer. In the case of a *vakıf* land we find the formula *öşr-i şeriyesini ifa etmek üzere ber mucceb-i şurut-i evkaf-ı merkum* '[on the condition] of paying his tithe according to the rules of the aforementioned *vakıf*.'

In the 'new type' *tapu*, the collection of *resm-i tapu* is no longer a condition for issuing the document. Thus, the 'Declaration of the official that the *tapu* fee is collected' element is omitted. We also do not find the formula guaranteeing the rights of the landholder. Instead, the formula *merkunun tasarrufuna izin verildiğini müsir* 'to verify that to the above-mentioned [person] is given permission to use [the land]' specifies the exercise of tenure rights as the reason for issuance the document.

In the grid-like 'new type' *tapu*, the characteristics of the landholding are filled out in the blank spaces of the grid. Although, the design of these *tapus* was intended to provide a more detailed description of the landholding than that found in *tapus* issued prior to 1858, most of the documents that I observed include the same landholding characteristics typical of 'old type' *tapus*. At the bottom of the grid, below the description of the landholding, we find a text containing the condition and the reason for issuing the *tapu*.

In the final protocol, the date of the document is written only with numbers, while a letter abbreviation is used for the month. Beginning in 1840, the date may be given according to both the Arabic lunar and the solar calendar. We no longer find the adverb 'tahriren.' Instead of signatures, the seal of the *Defterhane-i hakani* or the seal of the *vakıf* legalizes the documents.⁷⁴ Information about the registers in which the title deed is

⁷² The *ilmühabers*, which are temporary documents, do not contain the *tuğra*. We find only the title 'Defterhane-i hakani' (Imperial Cadastral Office).

⁷³ See above, 'Tapu types according to land categories.'

⁷⁴ The seals of the local *imam* and *muhtar* legalize the temporary title deeds, see 'By-law,' Article 3.

recorded is specified below or above the text. The date is usually noted again on the back of the document and verified with a seal.

Conclusions with regard to tapu as document

The following are my conclusions regarding the *tapu* as a document:

1. A *tapu* document is given to peasants for the possession of their plots of land and village property on *miri* or *vakıf* land.
2. It specifies the landholder, the type, location, and quantity of the land, and the legal cause for issuing the document.
3. It demonstrates state control over the circulation of land through its local representative.
4. It specifies the conditions of tenure, namely, the possession of usufruct rights.
5. It gives a guarantee for the exercise of tenure.
6. It demonstrates that *resm-i tapu*, the entry fee, has been collected.
7. It has the basic structure of the Hanafi contract of tenancy (Ar. *ijara*, Ott. *icare*).⁷⁵ As in the *ijara*, the object of the lease, i.e. the commodity of exchange, is not the land itself but the ‘right of its use.’⁷⁶ Nevertheless, a detailed description of the plot of land is a necessary element in both the *ijara*⁷⁷ and the *tapu*. The other commodity of exchange (the equivalent of the ‘right of use’) is rent.⁷⁸ The *tapu* does not specify the crops that a peasant intends to grow,⁷⁹ but we can deduce this from the kind of land described in it, e.g., cereals in a field, vegetables in a garden, etc. According to Abussu’ud, since the duration of the contract, presumably for life,⁸⁰ is not stipulated in the *tapu*, the latter should be regarded as a voidable contract of tenancy (*icare-i faside*).⁸¹
8. However, in some ways the *tapu* differs from the *ijara*. In addition to *resm-i tapu*, regarded by Ottoman law as rent, a peasant who holds a *tapulu* land pays the traditional land taxes—*harac-i mukasama* and *harac-i muvazzaf*.⁸² To avoid this confusing situation,⁸³ jurists interpreted *resm-i tapu* as rent paid in advance and the land taxes as rent paid thereafter.⁸⁴ Moreover, a *tapu* issued because of a land transfer, i.e., transfer of

⁷⁵ For a discussion of the contract of tenancy as a legal document, see Baber Johansen, *The Islamic Law on Land Tax and Rent: The Peasants’ Loss of Property Rights as Interpreted in the Hanafi Legal Literature of the Mamluk and Ottoman Periods* (London, 1988), 25-50. For a discussion of the form and structure of the contract of tenancy, see Khan, *Documents*, 143.

⁷⁶ Johansen, *Land Tax and Rent*, 26.

⁷⁷ Ibid.

⁷⁸ Ibid., 27. As noted, the Ottoman jurists regarded *resm-i tapu* as rent for the land.

⁷⁹ See Johansen, *Land Tax and Rent*, 26.

⁸⁰ “Üsküb ve Selânik Kanunu,” in Barkan, *Kanunlar*, 299, stipulates: ‘If they do not leave their lands barren, but cultivate them properly and pay fully their dues, nobody shall interfere with and violate them. Until their death they can possess [the lands] as they wish’ (*ellerinde olan yerleri zira ‘at ve hiraset idüb ta ‘dil eylemeyeler aslâ dahl ve te ‘arruz olunmaz nice dilerler ise tasarruf iderler*).

⁸¹ Abussu’ud-Akgündüz,” 82. For a discussion of the voidable contract of tenancy, see Johansen, *Land Tax and Rent*, 34-36.

⁸² Abussu’ud-Akgündüz, 81.

⁸³ According to classical Hanafi law, the payment of *harac* signifies landownership, see Johansen, *Land Tax and Rent*, 7-10.

⁸⁴ This is similar to the Ottoman practice of double rent (*icareteyn*), typical of *vakıf* leasing, in which the lessee pays a large sum at the beginning of the lease and then small installments every month thereafter. See Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (New York,

the ‘right of use,’ also includes elements from the Islamic contract of sale—declaration of the free will of the seller, the amount of the transaction, offer, acceptance, payment of the price, and a quittance clause.

9. In practice, the right of transfer of the usufruct, combined with the right of passing it on to sons and guaranteed rights of acquisition by other immediate relatives, makes the peasant tenure in *tapulu* lands almost indistinguishable from private ownership of land, at least from the point of view of the peasant.⁸⁵ Even though the Land Code of 1858 reasserts the state’s title to *miri* lands, the elimination of *resm-i tapu* narrows the legal gap between the *tapu* regime and private ownership of land.⁸⁶

Hypothesis for the origins and development of tapu title deeds

Because of the close connection between the term ‘*tapu*’ and the *miri* land regime, it is tempting to assume that *tapu* documents originated at the time of the formation of the regime, i.e., in the beginning of the fifteenth century.⁸⁷ Indeed, we find a reference to the term ‘*tapu*’ in one of the earliest extant Ottoman legislative acts—the *Kanunname* of 1488 attributed to Sultan Mehmed the Conqueror.⁸⁸ Moreover, the etymology of the word ‘*tapu*’ (from the Greek word *topos*—place, lot)⁸⁹—points to its possible Byzantine origin.

1994), 84 and 109; Evgeni Radushev, *Agrarnite institutsii v osmanskata imperia prez 17-18 vek* (Sofia, 1995), 205-06.

⁸⁵ Peasants were not the only ones who saw the advantages of holding land through the instrument of *tapu*. By the end of the eighteenth century, members of the Ottoman provincial elite had acquired considerable amounts of land—the so-called *gospodarlıks* or *agalıks*—holding *tapu* title deeds. The *agas*, however, viewed themselves as owners and they demanded *corvée* from the peasants. See H. Inalcık, *Tanzimat ve Bulgar Meselesi* (Ankara, 1943) and idem, “The Emergence of Big Farms, *Çiftlik*s: State, Landlords and Tenants,” in *Contributions à l’histoire économique et sociale de l’Empire Ottoman*, ed. J. Bacque-Geammont and Paul Dumont (Paris, 1983), 119-24.

⁸⁶ See in this respect K. Karpat, “The Stages of Ottoman History: A Structural Comparative Approach,” in *The Ottoman State and its Place in World History*, ed. K. Karpat (Leiden, 1974), 95 and *History*, 106. It is significant that after the formation of the Bulgarian state in 1878, during the transition from Ottoman law to the law of the new state, *tapu* documents were accepted as proof of ownership of the land upon which a new title deed had been issued, see Stalev, “Notarialniat akt.”

⁸⁷ According to extant land registers, the land system codified at the end of the fifteenth century had existed as early as the beginning of that century. See Inalcık, “Land Problems in Turkish History,” *The Muslim World*, 45 (1955), 223. Inalcık’s specification of ‘the beginning of fourteenth century’ as the time of the earliest recorded reference is probably a typographical error. The register, cited as evidence, is dated 1431, i.e., the beginning of the fifteenth century.

⁸⁸ “Fatih’in Umumî Kanunnâmesi,” in Akgündüz, *Kanunnâmeleri*, 350.

⁸⁹ Gerald Clauson, *Etymological Dictionary of pre-Thirteenth Century Turkish* (Oxford, 1972), 437. On the other hand, Boris Nedkov (Nedkov, *Diplomatika*, 34), J. Deny (J. Deny, *Et*, s.v. “*Timar*”) and, more recently, H. Inalcık (*History*, 1001), and Suraiya Faroghi (Faroghi, “*Tapu*,” 209) propose that the etymology of the word *tapu* () should be traced to the Turkish verb *tapmak*—‘to be attached to something, someone; to be slave to someone; to adore someone.’ Such an etymology, however, seems to be based on pure phonetic similarities. This verb, according to W. Radloff (*Versuch eines Wörterbuches der Turk-Dialecte*, vol. III:1, St. Petersburg, 1905) has two graphical variants— and . But the two derivatives from it—*tapig* and *tapug* ‘serving, worshipping, respect’—from which logically *tapu* is derived, are written with ‘t.’ Further, the word *tapu* is often written without the ‘*elif*’— . Clauson confirms the etymology of *tapu* from *tapmak*. He notes, however, that is no longer in use in the nineteenth century and should not be confused with . Indeed, in the dictionary of Şemseddin Sami, *Kamus-i Turki* (Istanbul, A.H. 1317) is no longer found, while appears only with the meaning of ‘a document for possession of land.’

The question is: Does fifteenth-century use of the word ‘*tapu*’ refer to a system of land tenure, a document, a tax, or all three? In my opinion, only the *tapu* fee (*resm-i tapu*) originated in the earlier period of the Ottoman state as part of the establishment of the *miri* land regime. The early appearance of *resm-i tapu* is in line with the possible Byzantine origin of the term *tapu* (see above) and the Ottoman policy of preserving local fiscal practices.⁹⁰ The meaning of *tapu* as a tax subsequently was broadened to signify the holding of land as a particular system of peasant land tenure.⁹¹ This is reflected in the basic division of *miri* agricultural land into *tapulu* and *mukataalu*,⁹² i.e., land from which a *tapu* tax is due and land from which a rent (*mukataa*) is due.

As for ‘*tapu*’ in the sense of a document, I have found no evidence for this in *kanunnames*.⁹³ I encountered the word *tapu* in the following phrases: *tapuya vermek*, *tapuya müstehik*, *tapu ile almak*, *tapusun vech gördükleri*, *tapuya razi*, *tapu almak*, and *takdir ettikleri tapu*.⁹⁴ The first three refer to giving land according to the terms of the *tapu* regime while the rest clearly refer to *resm-i tapu*. The *kanunnames* do not discuss the issuance of such a document. Only occasionally do they mention the term *tapuname*. The earliest mention of ‘*tapuname*’ in the *kanunnames* dates from 1565.⁹⁵ In some early *kanunnames*, we find the terms *tezkere* and *kağıt*, instead of *tapuname*, for documents given to peasants by land surveyors.⁹⁶ By the end of the sixteenth century, the *kanunnames* refer to these documents as *temessük*.⁹⁷ This observation holds true for the jurists’ writings.⁹⁸ The term *temessük* continued to be used for naming ‘a document for possession of land,’ in the eighteenth and nineteenth centuries as indicated by the discussion of the *tapu* title deeds above. However, were the sixteenth century documents issued for possession of land identical to the eighteenth century ones?

⁹⁰ The borrowing of terms from the Byzantine administrative and tax systems was a common practice in the early Ottoman state, see Speros Vryonis, “Byzantium and Islam,” in *Byzantium: Its Internal History and Relations with the Muslim World* (London, 1971); Halil Inalcık, “The Problems of the Relationship between Byzantine and Ottoman Taxation,” in *Akten des XI. Internationalen Byzantinisten Kongresses, München 1958* (Munich, 1960).

⁹¹ This system may have been characteristic not only of the Ottomans but also of other Middle Eastern and Mediterranean societies since early medieval times—see Inalcık, “Village,” 144; and Barnes, *Religious Foundations*, 25-26. The latter points to the similarities between this land regime and the Roman *emphyteusis* lease.

⁹² See Inalcık, “Village,” 143.

⁹³ Faroqhi, “*Tapu*,” 209, is also cautious when pointing to the meaning of *tapu* as document: ‘the term [*tapu*] has been translated [italics mine] as ‘title-deed.’

⁹⁴ See Akgündüz, *Kanunnâmeleri*; Barkan, *Kanunlar*, Index ‘*Tapu*.’

⁹⁵ “Bosna Sancağı Kanunnâmesi” in Akgündüz, *Kanunnâmeleri*, vol. 6, 463.

⁹⁶ “Kanunnâme-i Kitabet-i Vilayet” in Akgündüz, *Kanunnâmeleri*, vol. 1, 370.

⁹⁷ See note 34 above.

⁹⁸ The following *fetva* of Pîr Mehmed Efendi, *şeyhülislam* at the end of the sixteenth century, show that *temessük* was regarded as a ‘document allowing possession of land’ and that it was distinguished from the term *tapu*, the latter meaning ‘means of obtaining possession of land’ or pertaining to the nature of the possession.

Question: The *sipahi* Zeyd grants to Bekr the cultivated field of the diseased Amr, which necessitates [a payment] of *tapu*. After giving Bekr a *temessük*, Zeyd grants again the same cultivated field to Bishr. Is the second grant valid? Answer: No, it is not. (*Mes’ele: Zeyd-i sipâhi Amr-ı müteveffânın müstehakk-ı tapu olan bir kut’a tarlasını Bekr’e tefvîz edüb yedine temessük verdikten sonra tekrar Zeyd ol tarlayı Bışr’e tefvîz eylese, tefvîz-i sâni mu’teber olur mu? El-Cevab: Olmaz*). Pîr Mehmed Efendi, *Zahîr’ül-kudât* in Akgündüz, *Kanunnâmeleri*, vol. 9, 449:393, see also *ibid.*, 414:121, 414:122, 440:317.

In the court records of Bursa, we do find an acknowledgment (*ikrar*),⁹⁹ dated 1485, which relates to the initial granting of *vakif* land according to the terms of the *tapu* regime. Similar to the eighteenth- and the nineteenth-century *tapu* title deeds, it specifies the usufructuary rights of the beneficiary, granted for the payment of the *tapu* fee. Although the location of the land is mentioned, its exact boundaries are not described. In other words, more weight is given to payment of the *tapu* fee than to the particular plot of land that the document relates to. In effect, this is a receipt for the payment of the *tapu* fee.

In another document, relating to the transfer of *miri* land, dated 1556 and issued by a tax collector, we find even greater similarity to the later *tapu* title deeds.¹⁰⁰ However, the document does not mention a *tapu* payment; it mentions only the price of the transfer, which is specified as the cause for writing the document. The transaction is called ‘sale’ (*bey*) and the land is described in detail, as in a sales contract. Thus, in addition to describing the transaction, the document is relevant to the particular piece of land. Despite the mention of the term ‘sale,’ the transfer is approved by a state official. The ‘seller’ declares that he is withdrawing his landholding rights, which are desired by the ‘buyer.’ Then the official gives permission for the transfer. Clearly, what is being ‘sold’ is the usufructuary rights of the land, not the land itself, and the document is for the holding of *miri* land according to the terms of the *tapu* regime. A clause guaranteeing the rights of the new landholder is included. The document is named *tezkere*, serving as ‘*temessük*,’ the document needed in a ‘case of necessity.’ To summarize, this is a document in which the landholding is described in detail, the ownership of the ‘right of use’ of the land is implied, the leading role of the state official in the control of the land is demonstrated, and the landholding right is guaranteed. I regard this document as a prototype of the later *tapu* title deeds.

A third—and perhaps the most interesting—document, dated 1661, is almost identical to the ‘old type’ *tapu*.¹⁰¹ The document is regarded only as necessary to demonstrate the act of granting a *vakif* land according to the *tapu* regime’s conditions and requirements and it still refers to the issuance of a court instrument as necessary for the holding of the land. Although this document resembles the first two documents in terms of structure and terminology are great, it also contains most of the elements of the ‘classical’ eighteenth- and nineteenth-century *tapu* title deed. The document is termed ‘*tapuname*,’ here a ‘document for holding land on the terms of the *tapu* regime,’ no longer a ‘receipt for payment of a *tapu* fee’.

For purposes of comparison, I examined seventeenth-century court documents relating to the transfer of land.¹⁰² In these documents, one finds terminology that corresponds to the terminology prescribed by Abussu’ud for the transfer of landholding rights to *miri* land. The seventeenth-century court documents specify the payment of the amount of transfer and they are referred to as ‘the proof in the case of necessity.’ There is no mention of payment of a *tapu* fee, of an official giving permission for the transfer, of the specification of rights or their guarantee, etc.—all elements of the *tapu* title deed in the eighteenth century and of the *tapuname* of 1661. I conclude that the seventeenth-century

⁹⁹ See Appendix: Document One.

¹⁰⁰ See Appendix: Document Two.

¹⁰¹ See Appendix: Document Three.

¹⁰² For an example, see Appendix: Document Four. See also Grozdanova, “Documenti,” 271 and passim.

court records relating to land transfer serve as proof only for payment of the price, should such proof be required.

I regard the *ikrar* of 1485, the *tezkere* of 1556 and the *tapuname* of 1661 as representing early stages in the evolution of the ‘classical’ eighteenth- and nineteenth-century. Three documents are insufficient to permit a conclusion about the origin of *tapu* documents. However, when I combine these three documents with information from *kanunnames*, and compare them to eighteenth- and nineteenth-century *tapus*, I am able to advance the following hypothesis regarding the origins and development of *tapu* title deeds.

1. Until the middle of the sixteenth century, *tezkere* or *temessük* documents were given to peasants by tax collectors and other officials for the right to use land. Initially, these documents were either receipts for the payment of the *tapu* fee or transaction records for transfer of land, depending on the type of land grant—initial granting (without a registered landholder) or land transfer (with an existing landholder).

2. Both types of document demonstrate the control of state officials over land circulation. The documents relating to land transfer, however, do not specify the payment of the *tapu* fee. Furthermore, land transfer documents were registered in court and contained legal terminology found in sale contracts. Such terminology was inappropriate for a document relating to the *miri* land regime, because it undermined the principle that peasant land tenure is merely a right of land cultivation in return for payment of taxes, and not proprietorship.

3. In the second half of the sixteenth century, because of the rethinking of Ottoman land law by Abussu’ud and his successors, there was a change in the form and language of the documents given to peasants. Abussu’ud regarded such documents as lease contracts and the *tapu* fee as rent paid in advance. Thus, it became necessary for land transfer documents to indicate the payment of the *resm-i tapu* and to specify the landholding rights of the peasant. This led to an amalgamation of the two types of peasant landholding documents.

4. Abussu’ud also tried to shift the importance of court entries for land transactions to documents issued by the *sipahis*.¹⁰³ Although land transfers continued to be registered in court, the primary function of these records was to certify the payment for the transfer. Documents issued by *sipahis* and tax collectors in the seventeenth century differed from the ones issued in previous centuries and from those issued by courts. The new documents, which reflected the peculiarities of holding land according to the terms of *tapu* regime, were called ‘*tapuname*.’ Not until the end of seventeenth century, however, did the *tapuname*, *tapu temessüğü* or just *tapu*, as the document came to be known, acquire the language and structure that it possessed in the eighteenth and nineteenth centuries.

5. The eighteenth century *tapu* document was no longer simply a receipt for payment of the *tapu* fee or a record of a land transaction, although it possessed the formal elements of both. The jurists regarded it as a contract—a lifetime lease of state land—between the

¹⁰³ This is clearly seen in the following *fetva*: ‘Question: In Rumelia, Muslim judges give certificates and make entries in their records, [confirming] the validity of the sale and purchase, deposit and loan, and pre-emption and exchange of lands in the possession of peasants. Does this accord with the Noble *shari‘a*? Answer: It is contrary [to the *shari‘a*]. *Regard is only paid to the cavalrymen’s giving the land by tapu*’ [italics mine]—cited by Imber, *Ebu’s-su’ud*, 130.

cultivator and the state (as represented by the person who issued the document). It was, at this point, a formal document given to peasants for the right to hold their plots of land and village property.

6. With the development of their ‘classical’ form in the eighteenth century, the *tapu* documents gradually came to be associated with the notion of possessing land, notwithstanding the specific terms of possession, and in this sense and at this time they were regarded as land title deeds.

7. Any discussion of Ottoman land tenure in the fifteenth and the sixteenth centuries that refers to *tapu* documents as title deeds¹⁰⁴ projects eighteenth- and nineteenth-century realities backwards in time.

APPENDIX

Document One: *Ikrar* of 1485¹⁰⁵

11 Receb 890

Sebeb-i tahri-i huruf oldurki Orhan Bey ođlu merhum İbrahim Çelebi evkafına müteveli olan Mehmed Çelebi bin Umur Bey şeriat mahfilinde ikrar edüb etti ki evkaf-ı mezküreden Egrice köy nam yerde Balıklü köyden İşgarık yerde beş mudluk mikdarı yeri işbu hamil hüccet Yusuf bin Aisi (?) verdüm ki eküb biçüb sal be-sal öşrin ve rusum-i örfiyenin eda ede ve yüz elli akçe resm-i tapu aldum dedi tasdik eyledi.

[Witnesses]: *Veli Paşa ve el-Hacc İshak bin Yusuf ve Mevlana Musaheddin Şahin ve Seyyid İbrahim bin Seyyid Mahmud*

11 Receb 890 [July 7, 1485]

The reason for writing the document is as follows: Mehmed Tchelebi son of Umur Bey, administrator of the *vakıf* of the late Ibrahim Tchelebi son of Orhan Bey made an acknowledgment in the court declaring:

“I am giving the current valid court document to Yusuf son of Aisi (?) for the land of five *mudluk*¹⁰⁶ [located] in the place [called] Ishgarık, in the land of village of Egrije from the fishing villages (?) of the aforementioned *vakıf*. I took one hundred and fifty *akçes* [as] *resm-i tapu* from [Yusuf] so that he can sow and harvest [the land] and pay his tithe and customary taxes every year.” [What] he said was truthful.

[Witnesses]: Veli Pasha, el-Hajj Ishak son of Yusuf, Mevlana Musaheddin Shahin and Seyyid Ibrahim son of Seyyid Mahmud

¹⁰⁴ See for example Moutafchieva, *Relations*, 159-61.

¹⁰⁵ The document is originally published in H. Inalcık, “Osmanlı İdare, Sosyal ve Ekonomik Tarihiyle İlgili Belgeler: Bursa Kadı Sicillerinden Seçmeler,” *Belgeler* X:14 (1980-81), 52-53, document 157, in Arabic script, with a short annotation in Turkish.

¹⁰⁶ A grain measure, on whose basis the tithe is determined.

Document Two: *Tezkere* of 1556¹⁰⁷

- [1] *Sebeb-i tahrir-i kalam ve mucib-i tastir-i hitab-i rakam budur ki:*
 [2] *Sipoç nam derbend sunurunda ber canibi dikili taştan Dano tarlasına varınca*
 [3] *ve ber canibi Petri Radul tarlasıyla ve ber canib-i pınardan dereye varınca ve ber canibi*
 [4] *Petri Kalinin tarlasından dik aşağına mezbur Petri Radul tarlasıyla ve ber canibi*
 [5] *Prodan Perunkin tarlasına varınca hududu mahdud olan tarla ki Lanbo nam zimmi*
 [6] *den raci olub yine mezbur karye ahalinden Nikola veled-i Marko ma Yovo damad*
 [7] *mezbur talib ve ragıb olduğu ecelden mezkürlere üçyüz raic el-vakt akçeye bey-i bati*
 [8] *bey edüb yedine tezkere verildiği vakt-i hacete temessük edene. Kimesne mani ve dafi olmaya.*
 [9] *Tahriren fi evvayıl sefer el-muzzafer sene rabi ve sittin ve tisamiye.*
 [Signature]: *Mustafa Hüseyin emin-i sunur*

The reason for writing the document and the cause for recording the amount is as follows: The non-Muslim subject Lambo is withdrawing [his landholding rights] from the cultivated field located in the mountain pass village of Sipotch¹⁰⁸, which has [the following] boundaries: from the side of the stone mark reaching the parcel of Dano, from the side of the parcel of Petri Radul and the well reaching the creek, from the side of the parcel of Petri Kalinin to the cliff [bordering] the parcel of the above-mentioned Petri Radul, and from [the other] side reaching the parcel of Prodan Perunkin.

Since Nikola, son of Marko, and [his] son-in-law, Yovo, residents of the same village, desired the above-mentioned [land], it was sold [through] a final sale to the above-mentioned [persons] for 300 *akçes* of the current denomination. The written permission (*tezkere*) given to him [sic] is to be [their] written proof (*temessük*) of the transfer in a case of necessity. No one shall interfere with or oppose [them]. Written at the beginning of the victorious month of *Safar*, year 964 [1556].

[Signature]: Huseyin, *emin* of the village.

Document Three: *Tapunname* of 1661¹⁰⁹

- [1] *Veche tahrir-i huruf budur ki bin yetmiş iki senesinde merhum ve magfur Kara Mustafa paşa hazretlerinin Gelibolu'da*
 [2] *eylediği cami-i şerif ve imaret-i mamurları evkafında Samakov kazasında vaki cebel-i Rilie demekle*
 [3] *maruf yaylaklarda Solakoğlu Timurhan nam kimesne merhum olub evladı mezküründen*
 [4] *kimesnesi kalmayüb taht tasarrufunda olan Meriç basında Keçi Çukuru demekle maruf iki egrek yaylak*

¹⁰⁷ The document is from a still uncatalogued collection of NBKM, Bulgarian Historical Archive (BIA).

¹⁰⁸ Most probably Shipotchane, a village in southwestern Bulgaria.

¹⁰⁹ The document is from a still uncatalogued collection of NBKM, BIA.

[5] *mahlül kalub kanun-i padişahi üzere tapuyle müstahıkk olmağın malümdü(r). El-hudud bir taraftı*

[6] *Hacı Mehmedzade yaylası ve bir taraftı Haraboğulları yaylası ve bir taraftı Zarlog sunuru*

[7] *olmakile mahdud olan yaylağı nefsi-i Sama(kov) sakinlerinden Ayşe hatun tapu ile talib ve*

[8] *ragıb olmağın bin beşyüz akçe ile tevfiz (tefviz?) edüb ve lâkin mukabele-i tevfizde (tefvizde?)*

[9] *yedine sahib-i arz eden namesi lâzım ve mühim olmağın sal be sal rüsüm eda eylediği*

[10] *sayreler tapusu yaylakları ne vechiyle tasarruf ola geldiler Ayşe-i merkum dahi tasarrufunda*

[11] *olub ahirden bir merd kimesne mani ve mürahim olmaya ve tekarrüb-i şerifleri mutaallik olan*

[12] *efendiler tapu-i name-i muhakkak bilüb yedine kibl-i şeriden hüccet-i şeriyle*

[13] *abık edeler. Tahriren fi el-receb el-müreceb el-harin sene 1072.*

[Signature]: Ramazan aga

The reason for writing the document is as follows: In the year 1072 [1661] Solakoğlu Timurkhan died without leaving any children. The pasture of two *egreks* in his possession at the spring of Meritch,¹¹⁰ known as ‘Ketchi Tchukuru’ (Goat’s Rock), has been [declared] vacant, since, according to the law of the *Padishah*, there is nobody entitled to it according to [the conditions of] *tapu* [land].

The boundaries of the pasture, [which is] one of the pastures in the Rilie mountain,¹¹¹ in the *kaza* of Samakov¹¹² and [part] of the *vakıf* of the Holy mosque and its buildings in Gelibolu¹¹³ built by His Excellence, the deceased Kara Mustafa Pasha, are [as follows]: on one side the pasture of Haji Mehmedzade, on the other side the pasture of Harboğulları, and on the other side the border with Zarlog.¹¹⁴

The pasture was requested according to [the conditions of] *tapu* [land] from Aishe Hatun, from the town of Samakov, and it was transferred [to her] for 1500 *akçes*. However, [in return] for the price of the transfer, it is necessary and important that [she] be given a document making [her] an owner of the land. [On the condition that she] pays [her] tithes year by year, the above-mentioned Aishe will possess [the property], like the other pastures possessed according [to the conditions of] the *tapu* [regime].

No other person shall interfere with and impede [her]. Based on [this] *tapuname*, the men who are devoted to the sacred proximity to God should issue a court document for her, according to the law. Written in the venerated month of *Receb*, year 1072 [1661].

[Signature]: Ramazan aga

¹¹⁰ A River flowing through Thrace.

¹¹¹ A mountain in southwestern Bulgaria.

¹¹² Samokov, a town in southwestern Bulgaria.

¹¹³ Gallipoli, a town in Turkey, on the Dardanelles.

¹¹⁴ Razlog, a town in southwestern Bulgaria.

Document Four: *Ikrar* of 1682¹¹⁵*Hüve*[Judicial certification]: *Sahh ve sahh fihi...ve bi-l-fakir Mustafa bin Amr...el mevli bi kaza-i Samakov...affahuma ain-ü kerim*

[Seal]: illegible

[1]*Sebeb-i tahrir-i kitab oldur ki*[2]*Samakov kazasına tabi Sipoç nam karye sakinlerinden Petre ma İsvyatko veledan-i Petrodan*[3]*nam zimmiler meclis-i şeri-i şerifte kaza-i mezbure tabi Dragoşin nam karyeden Mitre veled-i Pop nam zimmi mahzurunda bi-l-mutavva ve-l-riza ikrar ve ittirağ edüb karye-i Dragoşin*[4]*sunurunda mutasarruf olduğum Pladnençe nam mevzide bir tarafı Boka ve bir tarafı İstoiçi*[5]*Radenko ve bir tarafı Velkosor ve [bir] tarafı tarik-i amm ile mahdud bulan iki*[6]*kıta tarlanın hakk-ı kararın ve rusum-i adliyesin mezbur Mitre'ye tefviz edüb mukabelesinde beşyüz nakd raic fi-l-vakt akçesin aldım diyecek mukarr-i mezburun*[7]*vechle meşruh üzere olan ikrarını mukarr lahu el-mezbur tasdik ve tahkik*[8]*eyledükte ba vaka gibb-el-talleb la icli-el-temessük kataba ve tanmik ve man yad-i talebe*[9]*vaza ve taalik olundu ki vakt-i hacette ihticac edine cara zalika ve karrara*[10]*fi evsat-i şehir-i rebiiülevvel sene [10]94**Şuhud-el-hal: Hasan Baki el-İttar, La-solak Ali, Nikola Borko, Lakanca(?) İstoyan, Pop Peçe, İstefan Pop*

[Judicial certification]: True! The [circumstances] in it are also true. [Certified] by the poor Mustafa son of Amir... judge of the kaza of Samakov, may both of them be deemed innocent in the eyes of God.

The reason for writing the document is as follows:

The *zimmis* Petre and Isvyatko, sons of Petrodan, residents of the village of Sipotch in the *kaza* of Samakov, appeared before the Holy court. In the presence of the *zimmi* Mitre, son of the priest, from the village of Dragoshin in the aforesaid *kaza*, being sound of mind and body, they declared and acknowledged [the following]:“I am [sic] the landholder of the two plots of land located in boundaries of the village of Dragoshin, in the place called Pladnentche and bordered on one side by Boka, on the other side by Istoitchi Radenko, on the other side by Velkosor (Velkozar), and [on the other] side by the public road. I [sic] took five hundred *akçes* from the current denomination as the price for the transfer of the right of residence and [the obligation for payment of] the legal taxes of the land to the above-mentioned Mitre.”The declaration of the above-mentioned declarant, made in the established manner, was deemed truthful by the beneficiary. The request, [which occurred] immediately after the event [of the declaration] was the cause of writing the *temessük*, and the latter was deposited in the hand of the petitioner to serve [him] in a case of necessity. This [event]¹¹⁵ NBKM, NPTA XVI 1\19.

took place and it was recorded in the middle of the month of *Rebiülevvel* 1094 [8-18 May 1682].

Witnesses: The druggist Hasan Baki, La-solak Ali, Nikola Borko, Lakanca(?) Istoyan, Priest Petche, Priest Istefan

Document Five: ‘Old type’ *tapu* for *miri* land¹¹⁶

Hüve

[1] *Vech-i tahrir-i huruf oldur ki:*

[2] *İşbu bin ikiyüz elli bir senesine mahsub der uhde-i iltizamımızd(a) olan Breznik mukataası*

[3] *mülhakatında İslivniçe karyesi hudud dahilinde vaki Şayna livada demekle maruf*

[4] *nam mahallde bir kıta hali çayır değirmen olunacak bir taraf dere bir taraf Praçalı(?) kalaycı*

[5] *Marinko iki taraf Denko ile mahdud işbu zikr olunan çayırın nisfını bundan*

[6] *akdem mutasarruf olan Denko veled-i Nikola nam zimmi kendi hüsn-i rızasıyla Borovalı*

[7] *Curo veled-i İstefan nam zimmiye yalnız elli guruş bedel mukabelesine kasr-i ferag ve tefviz*

[8] *ediüb ol dahi tefvizi kabul ve bedel-i tefvizi olan mebalig-i mezkürü*

[9] *tamamen eda ve teslim eyledikte tasarruf için tapusuna talib ve ragıb olmakla biz dahi*

[10] *kanun-i padişahı üzere resm-i tapusunun alub yedine işbu tapuname ita olundu*

[11] *tarafamızdan ve taraf-ı ahirden bir kimesne mani olunmaya*

[Signature]: *Esseyid Mehmed Seyfeddin vekil-i mukataa-i mezbur*

The reason for issuing the document is as follows: The future site of a mill, [now] a barren meadow, bordered on one side by the creek, on the other by [the meadow of] Kalayji Marinko of Pratchali, and [on the other] two sides by [the meadow of] Denko, and located in the place known as ‘Shaina livada,’ is within the boundaries of the village of İslivnitche¹¹⁷ of the *mukataa* of Breznik,¹¹⁸ [which I] undertook as a tax-farm for the current year 1251 [1834]. The previous holder of one-half of the above-mentioned meadow, the non-Muslim subject Denko, son of Nikola, of his own free will, ceded and delegated his [possession] rights to Djuro of Borovo,¹¹⁹ son of Stephan, for the amount of 50 *guruş* exactly.

Upon his acceptance of the transfer and the complete remittance of the above-mentioned amount [which is] the price of the transfer, [the above-mentioned Djuro] requested [to pay] the *tapu* [fee] for [the meadow], in order to enter into its possession. In accordance with the law of the *Padishah*, I collected [from him] the *tapu* tax, and the

¹¹⁶NBKM, 73A\80.

¹¹⁷ Slivnitsa, a town in Bulgaria, west of Sofia.

¹¹⁸ A town in Bulgaria, west of Sofia.

¹¹⁹ A village in Yugoslavia, on the western border with Bulgaria.

current *tapunama* was handed to him. No one on my side or on the side of anyone else shall interfere with [his possession].

[Signature]: Esseyid Mehmed Seyfeddin, representative in the above-mentioned *mukataa*

Document Six: A grid-like ‘new type’ *tapu*¹²⁰

[*tuğra*]: **Abdülhamid Han, Şah, bin Abdülmecid.**
El-muzaffer daima. El-Gazi

Defter-i şehir: <i>Haziran, sene</i> <i>[1]305 yoklama</i>
Daire-i belediye:

SENED-İ HAKANİ

Sıra numrusu:
52

Sancak	Gümülcine	Kaza	Gümülcine	Nahiye	Kariye		Mulahazat
Semt-i şehir		Mahalle	<i>Narlu Çukar</i>	Zokak	Mevki	<i>Ayatlık</i>	
Cinsi	<i>Bağ yeri</i>						
Nevi	<i>Arz-ı miri</i>						
Hududu	<i>Hüseyin Efendi ve Boyacı Nikola bağları ve yol</i>						
Mikdarı	<i>Üç dönüm-i atik [veya] bir dönüm, iki evlek elli yedi arşin-i cedid</i>						
Mahsusu							
Sahib-i evveli							
Cihet-i ita-i sened	<i>Hakk-ı karar</i>						
Mutasarrufu	<i>Tebaa-i devlet-i aliyeden Dimo oğlu Dimitri</i>						
Kıymeti	<i>200 [guruş]</i>						
Bedeli							
<p>[1]Sebeb-i tastir-i tevki-i humayün oldur ki: [2]Balada muharrer <i>ikiyüz guruş kıymetli bağ yeri Defterhane-i hakanide Dimitri uhdesine</i> [3]kayd olunmuş olmakla <i>be-her sene öşr-i şeriyesini memuruna eda etmek üzere</i> [4]zabt ve tasarrufunu havi merkum yedine işbu tapu senedi ita kılındı. [Tahriren] fi 5 Ramazan sene 1308.</p>							

[Seal]: *Defterhane-i Hakani*

¹²⁰ The document is from a private collection. Bold text in the transliteration indicates printed characters in the original. Italics indicate handwriting.

[*Tuğra*]: Abdülhamid Khan, Shah, son of Abdülmecid,
Victorious Forever, *El-Gazi*

Monthly register: Verified April 1889
Municipal office:

IMPERIAL CERTIFICATE

Serial number:
52

Sancak	Gümülcine ¹²¹	Kaza	Gümülcine	Nahiye	Village	Remarks	
City Quarter		Neighborhood	Narlu Tchukar	Street		Place	Ayatlık
Type	Vineyard						
Category	State land						
Boundaries	The vineyards of Hüseyin Efendi, Boyacı Nikola, and the road						
Quantity	Three old <i>dönüms</i> or one <i>dönüm</i> , two <i>evleks</i> and 57 new <i>arşins</i> ¹²²						
Peculiarities							
Previous landholder							
Reason for issuing the document	Right by virtue of residence						
Current landholder	Dimitri, son of Dimo, citizen of the Ottoman state						
Value	200 [<i>guruş</i>]						
Price							
<p>The reason for issuing the imperial document is as follows: The vineyard land described above, valued at 200 <i>guruş</i>, is registered in the Imperial Cadastral Office under the name of Dimitri. On the condition that he pays his tithes to the [respective] officer every year, this <i>tapu</i> certificate was handed personally to the above-mentioned [Dimitri] [in order] to hold the use of [the land]. [Written] on 28 August 1890.</p>							

[Seal]: Imperial Cadastral Office

¹²¹ Komotini, a town in Greece.

¹²² Old *dönüm*—919.3 sq.m., new *dönüm*—2500 sq.m., new *evlek*—100 sq.m., new *arşin*—1 sq.m. See Anton Minkov, “Mernata edinitsa,” 47-53.