

How do Ottoman “grey areas” and the ideal of the most just justice translate in Ottoman administrative law and procedure, such as that spelled out in property and tapu laws? As will be seen in Chapters Two and Four, property-registration officials were not legal formalists. Their primary goal was the registration of properties. In attempting to attain this goal, they demonstrated what appears to be considerable flexibility in the process of getting properties registered.

E. Atilla Aytekin argues that a state-centric analysis of the Land Code has characterized scholarly literature, leading to reliance on legal formalist analyses of the law that are divorced from social reality. As an illustration, Aytekin points to the numerous, vague references in the Land Code to “the official” from whom permission was needed in order to carry out a wide range of actions with one’s land, from partitioning collectively held land to planting trees, clearing wasteland for cultivation, and registering inheritance of land.

In literature on Palestine, Kenneth Stein provides example of legal formalist analysis on this point. He uses this methodology to help prove “the failure” of land-tenure reforms. “He [the owner of *miri* land] could not mortgage or sell it [“his” land] without the consent of the state, which was obtained from the Land Office. Even though such consent was usually routine, the aversion to associate with the government spawned unofficial land transfers and influenced those seeking loans to go to moneylenders rather than to the official