

# Property

*(Issawi, CH 10; Kuran '04)*

1. Property rights and economic efficiency
2. Inheritance under Ottoman Law
3. Corporations under Ottoman Law
4. The Waqf
5. Reform

# 1. Property Rights and Economic Efficiency

- **Coase:** The distribution of property has no effect on efficiency if there are no impediments to contracting
  - E.g., When does it matter if the shepherd owns the flock?  
...the programmer owns the patent?
  - E.g., FDI: Why won't Wall St. invest in Palestine?  
Can you get a business loan to develop a great idea?
- **Full Property Rights – i.e., no impediments to contracting**
  - Excludability – feasible and practical to selectively allow use; i.e., owner can protect against crime, taxation, expropriation.  
e.g., language, TV broadcasts are nonexcludable: cable TV is excludable  
- allows efficient investment
  - Transferability – feasible and practical to transfer ownership; e.g., contracting, inheritance.  
- allows efficient allocation
  - Rival – use by one person reduces usefulness to another; e.g., food is fully rival;  
- roads, radio signals, and internet access are mostly nonrival.  
- allows efficient separation of public from private sector control

# Role of Government

- What goods are efficiently provided by govt?

## 2. Inheritance Under Ottoman Law

- Paradox (to a Westerner): Islam emphasizes the civil aspects of a marriage contract, but is traditionally vague about property rights.
- Property was frequently confiscated by government “all property belongs to God”
- Ottoman Feudal Lords typically had grants of land which lapsed at death (in payment of some service), in contrast to EU feudalism
- All children inherited (females with  $\frac{1}{2}$  shares), even in polygamous families.
- Coase: Fragmentation of assets wouldn't matter if property rights were complete, but were they? e.g., splitting up the farm among the children.

# 3. Ottoman Business Law

- Existing firms were either sole proprietorships or partnerships
  - no corporations such as a company or a nonprofit (legal entity distinct from owners which can make internal rules, own property, make contracts, file legal claims, have limited liability)
- Partnerships and sole proprietorships ended at death of partner or owner, so no long term consolidation of wealth
- Ban on *interest* circumvented by small firms but blocked creation of large banks or insurers
- Christians and Jews have choice of law: begin to dominate services such as banking and insurance in 18<sup>th</sup> century
- Arbitrary changes in taxation, and even expropriation

# Inheritance & Corporations - Implications

- So... families seldom accumulated enough wealth to make large investments and exploit economies of scale,
- contracting did not allow much consolidation of wealth because of limitations on firm structure
  - merchant class could not emerge as economic or political force
  - led to anomaly of expatriate and minority strength in business *despite* discriminatory taxation
- These strong states and weak urban entrepreneurs set the stage for interventionist and activist states in the 20<sup>th</sup> century.

## 4. Waqf (Kuran '01)

- Based on 8<sup>th</sup> century interpretation of Q'uran: A Waqf is a nonprofit trust.
    - protected from expropriation and even taxation because of its' public service mission
  - Waqf not expropriated or even taxed,
    - even for a “family Waqf”
- Allowed intergenerational transfer of assets

# Waqf - significance

Became principal form of *public good provision* in Middle East: hospitals, poor support, education mosques.

Waqf became a large *landowner*

- By founding of Turkey (1929)  $\frac{3}{4}$  of arable land was Waqf
- $\frac{1}{8}$  of Egyptian arable land,  $\frac{1}{7}$  of Iranian in early 20<sup>th</sup> century,  $\frac{1}{3}$  of Tunisian land in 1883, e.g. In 1552 the wife of Suleiman the Magnificent founded the Jerusalem Waqf which eventually possessed 26 villages (as well as shops, a bazaar, soap plants, bathhouses).

# Waqf - problems

- Served many vital functions in its time, but had inefficiencies that worsened over time:
  - Tied to anachronistic mission, which must be honored, (e.g., institution for blind orphans)
  - Poor oversight, patronage (since beneficiaries do not own assets)
  - Crowded out government provision of services
  - Tied up capital
  - Crowded out more dynamic organizations, such as corporations, universities, or even local political parties, by raising barriers to entry?
- Note: Western trusts share these problems
- Coase: It only affects efficiency if contracting is limited.

# 5. Reform & Civil Society

- In 1000 Islamic Law and Institutions dominated the European system, where government was not providing social services and civil law lagged behind.
- But by 1800 most of Europe had surpassed the Ottomans in institutional flexibility: Universities, trade associations, corporations, municipalities, political parties, free press, had important roles in civil society.

# 5. Reform – Civil Society

- *Waqf* replaced by European style municipalities in 19<sup>th</sup> century (Istanbul 1856 was first)
  - funded services using taxes rather than donations
- *Secular law* based on European model *introduced* in mid 19<sup>th</sup> century throughout Ottoman Empire
- BUT when strong state governments emerged in 20<sup>th</sup> century secular institutions of civil society were unprepared to balance its' power,
  - symptoms:
    - a) corruption of govt. and large business
    - b) religious monopoly on political oppositionsince no other opposition is safe from govt. repression