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Archival Practices in the Muslim World prior to 1500

Abstract: This paper is basically a critical evaluation of the current debate on the question of why so little remains of a large body of documents from both government and cadis' offices from the pre-Ottoman Muslim world. It also tries to enlarge the regional basis of the debate by including the state of affairs in Persian-speaking lands. The focus is put on archival practices here: who stored which documents, where, and why? Archival practices included discarding and documents that were no longer required. This is closely linked to the reuse of writing materials as draft paper. A central question here is who actually kept archives and in particular whether this was an institutional task or a private matter. One new perspective is research on the physical forms of document storage (containers and buildings). The legal and social context of writing down documents and storing them is also mentioned briefly, as this also needs to be addressed by future studies. Ultimately, research on archival practices may offer better prospects of enlarging the pool of sources for the social history of the Near and Middle East than continuing to search for The Great Central State Archive.

1 Introduction

Historians concerned with the Middle East agree that pre-modern governments in the Muslim world beginning early on in the history of Islam, namely in the seventh century, developed impressive bureaucratic apparatuses both in the capitals and in the provinces. On another level, the output of paper at cadis' courts was no less important; it is evident that record-keeping was essential. However, not much of this wealth of paper has survived the ravages of time, even though millions if not billions of sheets of paper must have been involved over the years (papyrus was used in Egypt until the tenth century and parchment and other materials were employed in other regions until roughly the ninth century). Only a handful of pieces are extant today in their original form out of the entire Abbasid

production in Baghdad and Samarra, the Abbasid capital roughly during the second half of the ninth century.¹ The situation is rather different in the provinces (see below), but it is striking that even there, nothing has survived that was written in the central Abbasid chanceries. The transmission of documents becomes denser after c.1500, above all upon the introduction of more centralised and systematic archival practices in the Ottoman Empire.

Exactly why this is so is one of the great unanswered questions in the history of this region of the world, in particular since the situation is quite different for manuscript books: it is not uncommon for researchers to work with manuscripts from pre-Ottoman and even pre-Mongol times. As an example, 24 autograph volumes by the Egyptian polymath Maqrīzī (d. 1442) are known to us, and autograph copies of the works of the Iranian poet Ğāmī (d. 1492) exist in many libraries in Iran and Central Asia. A look at any of the major catalogues of manuscript collections will show that manuscripts from before 1500 have survived in impressively large numbers.

This paper is basically a critical evaluation of the current debate on the question of why so little remains of a large body of documents from both government and cadis' offices. At the end, I shall present some research questions.

2 Perishable matter

Paper and other organic substances used for writing have a limited life. The climate in the environment where they are used—in particular moisture and consequently mould—can affect their lifespan. There are also animals that feed on paper, such as worms, beetles, ants and mice. This holds true for all countries, of course, both East and West: Venice is much moister than, say, Damascus, and yet it has managed to keep thousands upon thousands of archival documents, whereas the record for Damascus is very different.² Another point, which is perhaps the most important one in this case, is that paper is flammable. One need only think of the Mongol invasions of Central Asia, Iran, Iraq, Anatolia and partly

1 In the context of this paper, an 'original' is the version of a document in the form in which it was first issued by its source (cf. van Berkel 2014; see also van Berkel 2013, which has an extensive bibliography, but no debate of the question at hand, viz. why no mediaeval archives have survived to this day).

2 Robinson 2003 seriously adduces climatic factors as the specific difference for the non-preservation of records. Bauden is quite justified in making fun of him (Bauden 2013, 32). Bauden's article has a very useful summary of earlier attempts at explaining the lack of archival material.

Syria (from the 1220s to the end of the thirteenth century, with the burning and sacking of Baghdad, including the Abbasid palaces, in 1258) and the no less devastating campaigns of Timur (d. 1405) in roughly the same area, and invoke the numerous destructive wars fought all over the region to immediately understand that these were unfavourable conditions for the preservation of documents. Not all regions were affected by the Mongol and Timurid invasions, however: Egypt was not, and neither were North Africa or the Arab Peninsula. Manuscript books also burn, of course, but they have been preserved to a larger degree than loose documents, even though we know that many libraries lay in ashes when the Mongols left. So the first reason why Ottoman documents survived where pre-Ottoman ones did not is probably that the Ottoman conquest of the Middle East in the fifteenth and sixteenth centuries was the last time the regions changed hands before the coming of the Europeans (beginning with Napoleon's campaign in Egypt, 1798–1802). Political instability and the short lifespan of Middle Eastern dynasties certainly did not favour the preservation of documents, but again, one should not imagine Latin Europe as being a model of political stability either. Political stability is also one of the elements which Astrid Meier adduces in her brief notes on 'Archives and Chanceries: Arab World': she thinks that 'what was lacking were long-lasting repositories and a bureaucracy with a vested interest in preserving their collections'.³ This is indeed part of the received explanation.

But there must be more, and this is what has puzzled historians for many generations. No conclusive answer has been found yet. The debate has now moved on to more concrete and more researchable questions, however.

One of the main factors that triggered the current debate was the publication of Michael Chamberlain's study on the scholars and notables of medieval Damascus.⁴ His basic question regarding the lack of archives is this: 'Is accidental loss the reason that historians have so few original document collections from the high medieval Middle East?'⁵ This is a rhetorical question. He presumes that other historians think that this loss of archival materials is indeed accidental, but his own answer is 'no', the reason being that documents did not matter as much in mediaeval Damascus, they were not as important for transmitting status, wealth and positions, and so they were not kept. In short, there are no traces of archives today because there were none back then. Quite a number of authors have responded to this, and all of them argue that Chamberlain is wrong. They do so along different lines, however. What emerges as a consensus is discomfort with

3 Meier 2012. This article is a useful survey of archives in the modern Arab world.

4 Chamberlain 1994. For a summary of some reviews of it, see Hirschler 2016a.

5 Chamberlain 1994, 13.

the lamentation that we do not have any archives, an increasing focus on differences in place and time, and a turn to investigate archival practices instead of looking for the missing archives themselves, including archives as dedicated areas for storing documents which are no longer of immediate legal or administrative value. If I had to summarise the debate in one question, it would be about who kept which records where (and in what form). I would also ask what they were kept for and how these records were preserved and transmitted—or rather, neither preserved nor transmitted, but discarded or simply thrown away.

2.1 What *do* we have, then?

At this point, a very brief survey of which fragments of archives have been found is in order. Only documents from the pre-Ottoman period are taken into account here, that is, we are looking at the entire period from the beginnings of Islam to c.1500. This survey does not aim to produce a complete list, of course.

First of all, there are the Egyptian papyri, which have been found in great numbers. Quite a lot of them represent the remains of archives. The *Arab Papyri Database* housed at Munich University now contains 11,620 files.⁶ Not all of them stem from cadis' courts or government officials, but many of them do. Those fragments of archives which have survived typically come from family archives. The papyri of the Bifām family, for instance, were found where they had been stored, in a sealed ceramic jar.⁷ Vorderstrasse has argued that these groups of documents are not really family archives at all, but that the documents follow people's property, as it were: 'The fundamental organizing principle of archives was the properties and not the owners'.⁸ She assumes that the documents were legal proof that a certain kind of action had been taken and that they were passed on together with the owner's property.

The famous Cairo Genizah, part of the synagogue of Old Cairo, has yielded enormous amounts of correspondence written on papyrus and paper. Most of it is commercial in character, but some legal and administrative matters are mentioned in it as well. This is the *contrary* of an archive, however: it was a 'memory hole' where Jews threw the papers they did not need any longer for fear of the Name of God being defiled (some form of the Name is practically on every single

⁶ www.apd.gwi.uni-muenchen.de:8080/apd/project.jsp (last accessed on 06/09/2016).

⁷ A list of archives or fragments of archives found *in situ* is provided in Hirschler 2016a, 5.

⁸ Vorderstrasse 2013, 284.

sheet).⁹ In Egypt, it is a well-known fact that most of the archives that have survived were kept in non-Muslim institutions: Jewish ones such as schools and synagogues,¹⁰ and Christian ones such as St Catherine's Monastery on Mount Sinai, the Georgian Monastery of the Holy Cross in Jerusalem and so forth.¹¹ These archives sometimes span several centuries and several Egyptian dynasties, and include many government decrees, but also legal opinions by Muslim jurists which the monks elicited.¹²

Research on genizah documents is currently going on in a number of places. The *Friedberg Genizah Project* aims at assembling the whole Cairo Genizah again, but on a virtual platform, since the holdings have gradually been spread over a host of libraries in different countries.¹³ The *Geniza Lab*, based at Princeton, is one of the most active research groups in this field.¹⁴

To give an example of what is happening in this sector nowadays, let us turn to Marina Rustow, who recently reported about her attempts to 'reunite' a tax-farmer's archive.¹⁵ The documents she refers to here are more than 30 tax receipts concerning a tax farmer—probably a Jew—and his Christian cashier in 1012–15. Twenty of these receipts were published by Geoffrey Khan in 1993.¹⁶ All in all, Rustow estimates that there are several hundred chancery documents in the genizah collections, and that is probably a conservative estimate, as she acknowledges herself—we may well be looking at thousands of Arabic genizah documents in reality.¹⁷ It should be noted from the start that the reconstructed archive was a personal archive: the tax farmer put it together, kept it, and at the end of its useful life, he or his heirs discarded it by throwing it into the genizah.

9 This treasure trove makes the Jewish community of Old Cairo one of the best-researched groups of people in the mediaeval Mediterranean. See Goitein 1967–1993. The given explanation of what a genizah was and why it was established also needs to be discussed.

10 Rustow 2010.

11 See Hirschler 2016a, 6.

12 El-Leithy 2011. The author also provides a list of the non-Muslim communities whose archives have survived.

13 www.genizah.org (last accessed on 27/09/2016).

14 www.princeton.edu/~geniza (last accessed on 28/09/2016).

15 www.lib.cam.ac.uk/collections/departments/taylor-schechter-genizah-research-unit/fragment-month/fragment-month-april-0 (April 2016; last accessed on 27/09/2016).

16 Khan 1993.

17 Rustow 2010, 3. Marina Rustow is 'currently writing a book on Fatimid documents of state preserved in the Geniza'. www.princeton.edu/nes/people/display_person.xml?netid=mrustow (last accessed on 27/09/2016).

Six more groups of documents must be mentioned here, too, partly because they are sometimes overlooked in the present debate (presumably since they do not come from Egypt):

First comes a find from eastern Iran—a family archive belonging to a notable rural family from what is now central Afghanistan, from the second century AH/eighth century CE, comprising 32 Arabic documents plus another group of some 150 pieces written in Bactrian, the local Iranian language. Most of the Arabic documents are tax receipts.¹⁸

The second group comes from roughly the same region, from Bāmiyān in central Afghanistan; the ‘Bactrian documents’ relate to a highland valley just north of Bāmiyān. Vladimir Minorsky published a small group of six documents as early as 1943¹⁹ and Gianroberto Scarcia published another one in 1963–1966.²⁰ But in the early twenty-first century, larger groups of documents from Bāmiyān have come to light together with manuscript books. The first group, consisting of 29 items, was exaggeratedly called the ‘Afghan Genizah’ because much of this material related to a Jewish community there. Later, in September 2016, the National Library of Israel announced the acquisition of hundreds of items, apparently from the same (undisclosed) source. This number includes documents from the eleventh to thirteenth centuries which are only partly concerned with Jewish communities.²¹

The third group of documents comes from fifteenth-century Granada: it covers several hundred items, among which there is a small family archive again, this one hidden behind a wall that the owner of the house and archive, Muḥammad al-Qirbilyānī of Baza in the province of Granada, evidently built when it became clear that Granada would be taken by the Spaniards in 1492.²² A substantial number of the Andalusian documents are purchase deeds relating to transactions from the late fifteenth century, used as legal proof when the articles

18 Khan 2007 and French version 2013; the illustrations are better in the French publication. The Bactrian documents have been edited and studied by Nicholas Sims-Williams in a number of publications. It should be kept in mind that the exact place where these documents were found is unknown; they simply ‘popped up’ on the local market one day. But the general localisation and the archival character is quite clear, as is the fact that both linguistic groups belong together.

19 Minorsky 1943. The first part, published in the same journal in 1942, concerns a single document from Khotan (Xinjiang, China).

20 Scarcia 1963 and 1966.

21 See www.nli.org.il/sites/NLI/English/library/news/Pages/Afghan-Geniza.aspx, the official website of the National Library of Israel (last accessed on 13/11/2016).

22 Zomeño 2007 and 2011.

were sold to Christians after the conquest, and they have been kept in Spanish archives ever since then.

The fourth group is a spectacular find—the remains of the archive of the early Safavid Sufi order at Ardabil, Iranian Azerbaijan, in 1970, roughly 300 items of which relate to the period prior to 1500.²³ These documents were stored on the premises of the Safavid shrine and were eventually forgotten by the shrine’s administration. Some of the documents were kept in boxes; it is not known whether these were the original boxes, however, or who put them there.

The fifth group is the find at the Ḥaram al-Šarīf (the Temple Mount) in Jerusalem, which was made in the 1970s by Amal Abu l-Hajj, who was then working at the museum there. Again, the collection had been forgotten at some point. It comprises around 800 documents, most of which are from the fourteenth century. The majority of them relate to a single *cadi* (judge) who worked in Jerusalem for some time in the late fourteenth century. Christian Müller has shown that the group of documents is not part of this judge’s archive, as was thought at first. In fact, the collection was made by another *cadi* using a selection of documents from a much larger corpus which the first *cadi* had left behind; the true compiler of the collection was directing an investigation into his colleague’s involvement in embezzlement and other such criminal activities.²⁴

The sixth group is the collection of documents stemming from the Qubbat al-Ḥazna, a structure in the courtyard of the Umayyad Mosque in Damascus known since the late nineteenth century. The documents and manuscripts are mostly kept at the Museum of Turkish and Islamic Arts (Türk ve İslam Eserleri Müzesi) in Istanbul today.²⁵ Although it is not known how many documents or what kind of documents this group includes, the publications available seem to indicate that many documents stem from *cadis*’ courts and were preserved by their addressees.²⁶ Researchers qualify the Qubbat al-Ḥazna as a ‘genizah-like’ institution, and

23 Herrmann 1971, and Fragner 1975. Herrmann has published the royal decrees from that collection (Herrmann 2004). Monika Gronke has published the pre-Mongol private documents, which are mostly purchase deeds (Gronke 1982), and she has written an extensive study of social history based to a large degree on this collection (Gronke 1993).

24 Müller 2015; a shorter presentation of the matter is in Müller 2011.

25 Regarding the history of the collection and its transfer to the Ottoman capital, and for an idea of what could be found in it, see D’Ottone 2013.

26 Publications: Mouton/Sourdel/Sourdel-Thomine 2013a. A full list of earlier publications is to be found on pp. 13–15. One work not on that list, however, is Mouton/Sourdel-Thomine/Sourdel 2013b, which was published in the same year.

more examples of such storerooms are quoted, like one at the Great Mosque of Kairouan (Tunisia) and a comparable room in the Great Mosque of Şan‘ā.²⁷

And finally, there is one group of documents that is a major exception in terms of absent documentary evidence, regardless of individual finds in individual places: we are fortunate enough to have a large number of endowment deeds, some of them original documents, others copies made later. I mention these here even though they may not be part of an archive; if they once belonged to an archive concerning an endowment, then they are often the sole survivors. There are, however, also cases where endowments’ trustees actually did store their archival materials.

As an example, I would like to mention the endowment deed written by Rašīd al-Dīn, a vizier for the Mongols in Iran in the first few years of the fourteenth century.²⁸ Quite a number of endowment deeds are extant from Timurid Herat and other places in eastern Iran.²⁹ In Muslim Central Asia, endowment deeds have also survived in large numbers, the oldest known original dating back to the end of the thirteenth century.³⁰ Another famous piece is the endowment made by Ğaġa (Caca), a Mongol emir in Anatolia, in 1272.³¹ The Egyptian State Archives in Cairo currently keep around 900 endowment deeds from all periods of the country’s long history. I am sure that we have still many such documents in countries where the institution of the Muslim endowment (*waqf*) was once established. It is possibly not by pure chance that in Iran, most if not all of the document collections known are situated on the premises of shrines or other ‘holy’ sites; this, of course, includes the endowments made in favour of these shrines.³² Shrine or endowment archives are probably the closest thing to institutional archives from the Muslim world (Christian monasteries, as we have seen, kept their documents in an archive on a much more regular basis).

To sum up what has been said so far, it is not entirely true that we do not have any archives or archival documents in general from the pre-Ottoman period. All

27 D’Ottone 2013, 65.

28 Hoffmann 2000.

29 Subtelny 2007; McChesney 1991 is a brilliant example of what can be made of endowment deeds plus chronicles plus other types of sources.

30 Arends/Khalidov/Chekhovich 1979. Another example, with documents partly from the late fifteenth century, is the collection relating to the Naqshbandi Sufi sheikh ‘Ubaydallāh Ahrār: Chekhovich 1974.

31 Temir 1959.

32 Sheikh al-Hokamaee 2013. This author makes the sweeping statement that there is nothing left of these archives, only to quote the Ardabil collection straight afterwards.

in all, the corpus of documents we do have is not a negligible one, and it is actually growing constantly, and growing fast. Two groups of documents are emerging clearly: administrative writings, in particular tax receipts, but also privileges and decrees on the one hand, and all kinds of legal matters on the other—documents stemming from the *cadi's* court, many of them from notarial practice. The fact that endowment deeds—which are also *cadis'* documents from notarial practice, by the way—have survived in large numbers must be taken into account if we are looking for a reason why other types of documents have not come to light. The small number of archives found *in situ*, without the link between the human agents behind the archive and the archive itself being broken, must also be explained. As Hirschler has observed quite correctly, most of what we have today is due to 'counter-archival practices': documents have survived in spite of their having been discarded (or, in the case of the Cairo Genizah, exactly *because* they were discarded).

Another point which proves the existence of archives (and also hints at the mostly private character of the relevant collections) is the large number of documents which have survived in literary works. We have a fair amount of state correspondence and administrative documents in chronicles, often quoted more or less verbatim; in administrative handbooks and collections meant to direct the apprentice clerk to the finer forms of bureaucratic Persian or Arabic or Ottoman (*inšā'*), we have decrees, appointment deeds, oaths of fealty and much more.³³ Legal documents have been transmitted in several types of legal literature: collections of legal expert opinions (*fatāwā*), works on legal procedure (*šurūṭ*) and the position and work of the judge (*adab al-qāḍī*). The authors of these various types of literary sources had access to collections of documents, and even if the transmitted texts cannot be treated as documents technically (simply because they do not possess the necessary diplomatic features), there is little doubt that many of them represent administrative practice at the time they were written.

Sometimes, we may presume that family archives were transcribed into books (and probably the originals were 'forgotten' afterwards). Such is the case with the correspondence of the shaykhly family from Ğām, in eastern Iran; their letters to regional rulers (in the fourteenth and fifteenth centuries) were copied by a member of the family who had access to the originals.³⁴ Another family archive which has survived because the documents were copied into a book mostly transmits pieces from the sixteenth century, but is listed here nevertheless: the

³³ Paul 1998, with a bibliography of published collections from (Greater) Iran in both Arabic and Persian. Many more collections are in manuscript form.

³⁴ Ğālāl al-Dīn Yūsuf-i Ahl n.d. The collection has 318 texts in all.

Ğūybārī ḥwājas from Bukhara had hundreds of purchase deeds and other materials put together in a book.³⁵ It thus seems that the chances of preservation were higher if the documents were copied and bound in a book, for whatever reason the copy was made. The manuscript books which originated in this way were multiple-text manuscripts, and more particularly of the type we could call the ‘corpus organiser’:³⁶ the corpus they organised was—or had been—an archive. On the other hand, the practice of writing many documents on a single scroll—sometimes documents concerning one property—also makes this scroll a ‘corpus organiser’: an archival scroll.

The fact that records were kept in large numbers and that administration involved a high amount of paperwork is thus beyond doubt, *pace* Chamberlain.³⁷ But who kept what kinds of records and why? It is essential to make some distinctions here which were not always made in the general lament about the absence—or silence—of archives. First of all, we need to regard administrative (i.e. government) and *cadis*’ documents separately. Second, we have to look at the producers of documents on the one hand and the addressees or beneficiaries on the other. In the case of *cadis*’ documents, it is important to know whether a given item is the *cadi*’s copy or the version handed out to one of the parties concerned (or yet another person).

I will first address the subject of administrative documents here and then turn to *cadis*’ documents.

3 Administrative documents

As I have shown above, tax receipts are among the earliest documents we have been able to find so far, from Egypt as well as eastern Iran. The fact that charging and receiving taxes involved a huge amount of paperwork is very clear from literary sources. What we have today is therefore only a microscopically small portion of what was actually written, and it has come down from the receipt side, that is, from family archives kept by the taxpayers or other local figures, not from the ‘state’ side of the record. Maaïke van Berkel has found that in the Abbasid administration, there must have been registers which were kept long enough to

³⁵ *Iz arkhiva sheikhov Juybari* 1938. For a history of this collection, see Paul 1997. At least one item in this collection has also survived as an original document.

³⁶ Bausi 2010.

³⁷ This point has been made by many authors: Sijpesteijn 2007, Rustow 2010, el-Leithy 2011, Bauden 2013 and Hirschler 2016a, for example.

serve as the basis for processing complaints, but she also says that such records tended to be seen as private property belonging to the secretaries.³⁸ In Egypt, the rules of writing tax receipts were so well known that secretaries enquired about the possibility of making exceptions; this is proof indeed that writing documents of this kind was the norm in the taxation field.³⁹ The Egyptian secretaries sometimes made no distinction between state archives and private records either. When the secretaries in the administration in Old Cairo learned that the hostile Iḥšīdīd forces were advancing and threatened to take the city, they took the tax registers away with them—this (inevitably) led to the destruction of the documents.⁴⁰ Registers may have been destroyed even more frequently, in fact: Rustow provides a list of riots and revolts in Cairo during the Fatimid period; Bauden and Rustow observe that there was large-scale destruction when Fatimid rule came to an end in 1171.⁴¹ During a fire in the Cairene citadel in 1292, the Mamluk soldiers broke into the chancery and took many of the documents away with them to sell them as paper on the market.⁴² This was not a unique occurrence either: in 1389–90, rioting soldiers broke into the chancery (*qāʿat al-inšāʿ*) once again and carried off a great many documents, and again they were sold as paper on the market.⁴³ Hirschler was the first to ask what was the precise nature of the office from which the rioters took the documents; he states that it is quite clear from the text of the source that this was not an archive in the proper sense, but a chancery, and that the documents to be found there were unlikely to have ended their administrative life when they were taken away.⁴⁴

The fact that the tax administration could be reconstructed even if the central registers were gone is shown in the case of the Ottoman takeover in 1517: the Ottomans did not use the old registers at first, but proceeded to establish new ones in the provinces.⁴⁵ This was not untypical of Ottoman practice, but it is equally clear that the Ottomans did not actively destroy the older records.⁴⁶ Hirschler also warns against concentrating too much on *the archive*, that is, the Great Central

38 van Berkel 2014.

39 Sijpesteijn 2007.

40 Sijpesteijn 2007, 164.

41 Rustow 2010, 18–20; Bauden 2013, 35–36.

42 El-Leithy 2011, 429–430.

43 Bauden 2013, 36–38; el-Leithy 2011, 426; Hirschler 2016a, 9; Rustow 2010, 18.

44 Hirschler 2016a, 9–10.

45 Michel 2013.

46 Burak 2016. It was Claude Cahen who adduced that the Ottoman campaigns to re-register taxation were one of the reasons why so few written records have survived; Bauden 2013, 30.

State Archive, but advises researchers to look at diverse archival practices instead, which may have allowed decentralisation on a much greater scale as well as a much more personal way of keeping records.⁴⁷

The first question to emerge here, then, is to what extent records—including tax registers—were kept privately by the secretaries. There is no conclusive answer to this as yet, but it may be assumed that private record-keeping was widespread. This not only holds true for tax registers, but for general accounts as well. Historians frequently had jobs working in administrative fields, and they used the records they had access to in writing their chronicles.⁴⁸

Another question that arises is that if paper containing administrative texts was occasionally sold as scrap paper at the market, how often did that actually happen? Was this always done by rioting soldiers or marauders, or was it a practice among the secretaries? Bauden has analysed this question in great detail and came to the conclusion that official documents were reduced to mere paper again once their administrative life had ended, after which this paper was often sold. His evidence is based on his search for reused paper of this kind: he found no less than 509 sheets of reused paper in the 24 autograph volumes known from Maqrīzī, all of which are drafts. In Bauden's opinion, this practice must have been quite common. In Maqrīzī, it is the *verso* sides—which do not have any writing on them—that were reused. In other cases, Bauden thinks, it is the large spaces left blank between lines in official correspondence and some types of sultanic decrees which led to these documents being cut up and sold as paper.⁴⁹ The documents therefore must have left the administrative circuit after a while. This procedure would account for many of the losses, Bauden concludes, so if we are looking for documents, we should not look for an archive as such, but sift through individual draft manuscripts instead. Certain types of administrative documents lost their legal value as soon as the recipient died or left service; there was no need to keep them any longer after that.⁵⁰

Konrad Hirschler has followed this line of research and gone beyond Bauden on a number of points. In a study of numerous manuscripts kept at the National Library of Syria, he detected and reconstructed around a hundred documents from the Ayyubid and Mamluk periods, most of them stemming from notarial

⁴⁷ Hirschler 2016a, 26–27.

⁴⁸ One example is ʿImād al-Dīn al-Iṣfahānī, who used such records in his biography of Saladin (1169–1193). Another example is Bū l-Faḍl Bayhaqī, who also worked from (his memory of) his personal archives in his history of the reigns of Maḥmūd and Masʿūd the Ghaznavids (eastern Iran, 998–1040).

⁴⁹ Bauden 2013, 38–40.

⁵⁰ Hirschler 2016a, 27–28.

practice (marriage contracts, deeds of sale, etc.). This is currently the largest body of legal documents from Damascus we know of from this period (as long as the Qubbat al-Ḥazna materials have not been fully published, at least). However, Hirschler argues that in a significant number of cases, the reuse did not just involve the paper, but the text(s) written on it as well.⁵¹

Marina Rustow also remarks that many of the legal and administrative Arabic documents (on papyrus as well as paper) in the genizah (many of which do not concern Jews at all) have been preserved because Hebrew texts were written on the *verso* sides. Searching through genizah documents in the Bodleian holdings, she found around fifty petitions and decrees on top of the 173 documents which had been known before. ‘All are fragments cut and reused for Hebrew texts’, she adds.⁵² To explain the fact that Jews preserved Arabic documents (concerning Muslims), she points to their need to have recourse to models for writing petitions to the central government.

Reusing administrative documents was an old practice, at least in Egypt. Petra Sijpesteijn has published a papyrus fragment from the second/eighth to third/ninth century which was reused in this way: somebody wrote some prophetic tradition on the *verso* side of an administrative text. Never mind that only three or four letters have survived from that text – the fragment is proof that even in this early period, papyrus documents were reused in very much the same way as later documents on paper were. It stands to reason that many more cases of such early reuse will come to light once researchers start looking for them.⁵³

It thus appears that the reuse of discarded documents was widespread and that this practice does, indeed, go at least some way in explaining why the preserved documents were not preserved *in situ*, but by counter-archival practices. The ways of discarding such texts and the reasons for this practice still remain largely unexplained, though. To what extent was the text of the document itself important for its preservation, as Hirschler and Rustow ask? To what extent are we merely looking at the economic reuse of material rather than specific texts? The reuse of paper (or parchment or papyrus), its various forms and the strategies and purposes behind it are questions that are clearly emerging now in a new line of research.

The fact that documents were discarded—by selling them as paper or just by throwing them away—is attested from other countries as well as Egypt. Another

51 Hirschler 2016b. My thanks to Konrad Hirschler for agreeing to be quoted in this paper and also for a number of valuable remarks on a draft of the article.

52 Rustow 2010, 4, n. 11.

53 Sijpesteijn 2015.

procedure for destroying documents is known from Iran, for example, where the texts on them were simply washed off in the ‘bowl of justice’, as it was known.⁵⁴ This practice probably concerned privileges that were revoked when the beneficiaries fell out of favour, as can be shown from various narrative sources.⁵⁵ Washing the writing off a document is discussed in legal literature as one of the ways to invalidate it (besides burning it, throwing it away or burying it).⁵⁶

Recent research, thus, stresses diverse agencies in archival practices. The State is not the monolith we thought it was, but is, in fact, made up of many different players—it is more like a field where diverging interests are vying against one another.⁵⁷ Many of these different players also had their own routines for record-keeping and for discarding documents which were no longer useful to them.

3.1 Cadis’ documents

The second large group of documents comes from cadis’ courts. Bauden names two earlier explanations of the loss of the respective archives, provided by Sauvaget and Cahen, which he thinks are relevant. First, Islamic law does not accept documentary evidence as proof of a past action and insists on witnesses of the act being questioned. Second, Islamic law does not recognise legal persons and insists on natural persons as legal agents.⁵⁸ In both cases, legal documents would not need to be kept over long periods of time. Both positions need to be qualified, however. First, regarding documentary evidence, Johansen has shown that leading Ḥanafī theorists from among the Central Asian classics (eleventh and twelfth centuries) thought that ‘documents and records that do not have witnesses but are produced by the commercial and political elites should be accepted as reliable evidence’.⁵⁹ This position became increasingly important in Ottoman times, but must have been at least an option even earlier, even in regions where other schools of law than the Ḥanafī one, which was the most important one in the Ottoman Empire, dominated.⁶⁰ In his discussion of the cadi’s court and

⁵⁴ Sheikh al-Hokamaee 2013, 139.

⁵⁵ Paul 2016, 356.

⁵⁶ Bauden 2013, 30.

⁵⁷ See the introduction to Paul 2016, 60–72.

⁵⁸ Bauden 2013, 28–30.

⁵⁹ Burak 2016, 241; see Johansen 1997. For Müller’s position, see Müller 2010.

⁶⁰ Zomeño 2011 explains that documentary evidence was not universally accepted as independent proof in Muslim Spain (where the Mālikī school of law was predominant), but it still had some value below that level.

the registers it kept, Hallaq also comes to the conclusion that documentary evidence could be accepted, at least in some cases.⁶¹ What did that effectively mean for the preservation of *cadis'* documents, though?

As I have shown above, again, those *cadis'* documents that have come down to us from the period prior to 1500 apart from the Cairo Genizah, genizah-like institutions, literary transmission or reused paper (counter-archival practices) were preserved in family or institutional archives (at shrines or on behalf of the endowment administrators). Some of the extant documents evidently have the properties proposed by Vorderstrasse; this may also be the case for endowment deeds.⁶²

To the best of my knowledge, no archive of a pre-Ottoman *cadi* has come to light yet. Nevertheless, there can be little doubt that *cadis'* archives did, indeed, exist and that keeping them was considered an essential part of a judge's work.

Hallaq (1998) has provided the most detailed description of what a *cadi's* archive was in pre-Ottoman Syria and Egypt. This probably also applied to other regions as well. A *cadi's* *dīwān* included copies of the judge's decisions, cases he was involved in, but also a list of prisoners with the dates of their possible release, lists of property belonging to orphans for whom the *cadi* acted as a trustee, lists of endowments along with the names of the people managing them, lists of professional witnesses and so forth. It is thus not only the cases heard and transactions attested which made up the *cadi's* archive (*dīwān al-qāḍī*). In Egypt, all these documents were kept in a kind of 'bookcase' (Hallaq's term) called a *qimaṭr* from a comparatively early period.⁶³ Cases and other documents were put aside and stored regularly, perhaps on a monthly basis, sometimes kept in leather bags which were sealed. All this documentation was linked to the *cadi* as a person; Hallaq explains this as being due to the absence of a specific area for the dispensation of justice—there was no 'courthouse' as such; rather, a *cadi* could sit in any publicly accessible place and conduct his work. Whenever a *cadi* left office or died and another man took over, the documents were transferred in a complicated and strictly regulated way which involved copying the material twice, once for the new judge and once for the witnesses who attested the procedure. After the material had been transferred, the old 'originals' remained in the outgoing judge's possession—and lost their legal validity the moment he lost his office.⁶⁴

⁶¹ Hallaq 1998.

⁶² Vorderstrasse 2013.

⁶³ Lane's dictionary adds that a *qimaṭr* in this sense was made of reed.

⁶⁴ Hallaq 1998. Sheikh al-Hokamaee confirms this: Sheikh al-Hokamaee 2013, 139; he explains that these papers then went to 'the druggist's store'—probably to be sold there as scrap paper.

In the documents from Granada (see section 2.1 above), there is at least one example of an ‘updated’ document: a purchase deed from 1432 that was updated in 1488; the update concerns the signatures of the professional witnesses who had attested to the authenticity of the original document.⁶⁵

In the ideal case, all previous documents were obliterated once they had been copied into a new *cadi*’s papers. It is therefore hardly surprising that such documents have only survived in family and institutional archives and that *cadis*’ archives have not been preserved. This pattern changed with the Ottomans, who took a different approach to documentary evidence; they loosened the link between the *cadi* as a person and his archives.⁶⁶

Endowment deeds are a major exception to this general rule. They were *cadis*’ documents, but they were carefully preserved by the individuals behind the endowment. Even if the endowments were not legal persons from a technical point of view—a concept which Islamic law, strictly speaking, does not know—they acted as such for all intents and purposes: they ‘owned’ property, they ‘bought’ and ‘sold’ items, and so forth.⁶⁷ It is this specificity of the endowment as a quasi-legal person that is behind the large number of endowment deeds which have been preserved, unlike other types of *cadis*’ documents. In this respect, endowments can be likened to non-Muslim institutions (such as monasteries) that also kept their documents and to Iranian shrines, which, as Sheikh al-Hokamaee asserts, also have numerous documents among their holdings.⁶⁸

Hallaq concludes his article with a discussion of why these materials have not survived. He gives two very interesting reasons for this happening: first, he thinks that loose leaves survive much less frequently than bound books, being discarded much more easily by negligence and even used by households as fuel for the fire. Second, he assumes that there was no reason to keep them, and that they were discarded or trashed because they did not contain anything of literary value: no poetry, no prophetic tradition and so forth, and that their content was therefore no longer of interest to anyone.

⁶⁵ Zomeño 2011, 469.

⁶⁶ Burak 2016.

⁶⁷ Behrens-Abouseif 2009.

⁶⁸ Sheikh al-Hokamaee 2013.

3.2 The last step

Historians who are concerned with the ‘archival question’ have seen the divide at around 1500 CE, with the introduction of new archival practices in the Ottoman Empire and the Empire’s new acquisitions on the Balkans and in the Arab world. Non-Ottoman regions have been rather neglected in the process, but it is clear that in Iran and Muslim Central Asia, to name just two regions, we can also see an increase in the number of surviving documents after c.1500.⁶⁹ The question of how the archives passed through the colonial period into the age of the nation state is also largely unexplored.⁷⁰ As we approach early modern and modern states, we need to reconsider the very concept of an ‘archive’ and take its possible Benthamian and Foucaultian connotations into account.⁷¹

Another observation which has not yet been made in this context is that a huge number of countries experienced a cultural break in the nineteenth or twentieth century. This concerns all the regions which came under colonial rule at some point, meaning that Islamic law was no longer practised there or at least not practised alone (British India, French North and West Africa, Russian Central Asia, Dutch Indonesia and so forth). In many countries, colonial or not, the Arabic script was abolished or abandoned in the twentieth century: modern Turkey, the Balkans even where Islam continued (Bosnia and Albania), parts of the Soviet Union, large parts of sub-Saharan Africa all saw this happen. During the colonial period or after the foundation of modern nation states, documents of historical interest were often transferred to national archives or museums—a very late step in many cases (the Iranian National Archive was only founded after the Second World War, for instance). The colonial states applied their own (very idiosyncratic) organising principles to the papers they often took to the metropolitan areas (St Petersburg, London, places in the Netherlands), with the result that the original archival practices are now difficult to reconstruct because the order in which the materials had been arranged was disturbed, if not destroyed. In transferring the collections to the new archives or museums, they were inevitably transformed from being a ‘living’ collection of documents into a ‘dead’ museum

69 Fagner 1980 shows this increase for Iran.

70 This observation was the rationale behind the international conference *Persianate Cultures of Documentation: An International Symposium*, convened by James Pickett and Paolo Sartori, Vienna, June 2016. The contributions mainly concerned South Asia.

71 Sartori 2016. Thanks to Paolo Sartori for sharing his research with me before publication. I would also like to thank him for a number of thought-provoking discussions we had together.

collection, an archive only of interest to historians. This is equally true of the Ottoman archives, which now are part of the national archives of the Turkish Republic.

Cultural disruption could even lead to situations which directly threatened the survival of written materials. Thus, during Stalin's reign of terror in the 1930s, it was dangerous to have books or even anything written in Arabic script in one's house. People therefore either hid or buried their books and documents, many of which were eventually lost at some point.

In general, I believe, the colonial situation and the founding of nation states may have led to two separate developments: on the one hand, many materials found their way into the newly founded colonial or national archives where they now await their readers—no longer cadis, administrators or parties to legal disputes, but PhD students and researchers in general. On the other hand, it is highly probable that many documents are still kept in private collections together with manuscript books, out of filial piety or pride in owning such things (the age of which is often greatly exaggerated) or out of mistrust of the official collections. This is most probably the case in countries such as Iran where cultural disruption was not as pronounced in the colonial period.

4 Conclusion

A number of research questions have emerged at the end of this brief survey. The question of the archive remains unresolved, but I think it has become clear that the search for a central institutionalised archive which the state used for record-keeping needs to be modified now. Archival practices have been central in the debate on this question over the last few years, and the results are encouraging. Moreover, besides discussing diverse techniques and strategies of record-keeping, of preserving and passing on records and knowledge related to records, we must also talk about the practice of discarding records, of discontinuing their use and of their reverting back to paper again—a commodity which had a certain value on Middle Eastern markets due to demand. Discarding documents therefore frequently meant reusing paper.

Another research question is linked to record-keeping practices and their material and the space used for them. From the ceramic jar of the family archive to the 'bookcase' (*qimatr*) of an Egyptian judge and the building of caches for documents, how did the material and the space used in the process of record-keeping influence the social practice? In the same vein, it is quite evident that there is a difference between a bound book and a collection of loose leaves. Whereas bound

books were routinely preserved, collections of loose leaves evidently were not. Did a collection of documents require a codex as a protective ‘envelope’ in order to enhance its chances of survival? And why do we have so many copies of records in books, but not the originals?

The most important research question in my mind is about the agency of record-keeping. Who exactly kept records? And what became of these records once the individual creator of the collection had died? How were records passed on? After all, we are looking at periods which are more than five hundred years in the past now and thus quite remote. Perhaps the transmission of records is therefore even more important than the question of their constitution. It is here that the great cultural breaks must be taken into account—the Mongol invasions are one example of interruptions in the pre-Ottoman period, just like the Ottoman takeover itself, the colonial period and eventually the emergence of the nation state. How did the new masters treat the records of those whom they had vanquished? Is the case of the Ottoman conquest of Egypt typical? They bypassed the older records, but incorporated some of them later, only to thoroughly forget the earlier books and documents. Is it of any significance that those documents that we do possess now stem to a significant extent from depositories which had been created by shrines, or more precisely, shrine families acting as endowment administrators?

Last but not least, the question of record-keeping, of archival practices that included the act of discarding documents and throwing them away, cannot be discussed without knowing their specific legal and socio-political context. We cannot hope to understand the fate of archives in societies where some form of Islamic law was predominant without understanding the status of written proof in them—of witnesses and documents and so forth on the one hand and the question of the legal person on the other. As for administrative documents, we are still far from understanding the significance of private individuals in the state administration. And we are far from understanding the workings of the administration itself, the interplay of central and local actors, and the relative importance of formal and informal practices.

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