The Making of Law in the Ottoman Space, 1800-1914

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ABSTRACTS (IN ALPHABETICAL ORDER)

Noémi Lévy-Aksu, Boğaziçi University
Codifying –or not Codifying- the Exception: the 1877 *İdare-i Örfiye Kararnamesi*

My paper aims to discuss the legal, political and social configuration that shaped the 1877 regulation of *idare-i örfiye* (or *örfi idare*), the untranslatable Ottoman equivalent of the state of siege. First mentioned in the 1876 Constitution and first applied during the Russo-Ottoman War of 1877-1878, the *örfi idare* consisted in the suspension of the ordinary legal order in exceptional circumstances. Its scope and modalities of application were codified in September 1877 by a decree composed of 13 articles. The Ottoman *kararname* was a case of legal hybridization that combined the translation of some articles of the 1849 French law on the "état de siège" and references to the Ottoman political and legal systems. Relying on the French and Ottoman legal texts, as well as documents from the military archives in Ankara and the Başbakanlık archives, I will attempt to analyze this codification of the *örfi idare* both as the product of textual encounters and as the result of political and social dynamics involving a wide range of local, governmental and foreign actors in the context of the Russo-Ottoman war. I will also discuss the lack of precision of this regulation on several crucial aspects, arguing that the confrontation to the social realities did not only shape the process of codification but also contributed to define what was to remain unspoken in the law. Theses lacunae left room for tensions and negotiations between the different parts active in or affected by the *örfi idare*, especially the different institutions of the central government, the provincial military authorities and the foreign powers. By its contents and its gaps, the 1877 regulation sheds light on the mechanisms that transformed the *örfi idare* into a tool of government for exceptional and (most often) non exceptional times in the late Ottoman period and, later on, during the Republican era.

Ahmad Amara, New York University
State Making and Jurisdictional Tensions: The Beersheba Kaza as an Anomalous Legal Zone

Throughout the process of founding and administering the Beersheba town and *kaza* (1900) in southern Palestine, the Ottoman officials had emphasized the 'special circumstances' of the region. Their actions and administration were guided by these circumstances. In 1902 the local administrative council was allowed to sit as a Court of First Instance (*bidayet mahkemesi*). What was applied however, were mostly the local laws and customs, and the judges serving in the court were local Bedouin sheikhs. The year after, the *şurayı devlet* (The Ottoman Council of State) allowed the council to look also into land dispute cases, to be resolved also according to tribal local customs. Despite the Ottoman land reform and attempts to register Bedouin held lands since the 1880s, the *şurayı devlet* had justified its decision by the then-existing local practices. The decision noted that lands in the region were not registered and land transactions (*rehin ve ferağ*) were being conducted according to the local custom and tradition (*örf ve âdet*), whereas disputes were resolved through *sulh ve hüküm* (mediation and ruling). The Ottoman government sought to make a gradual change in southern Palestine without imposing its own official laws, and justified its decision by the fact that the Bedouin were not educated of the judicial rules and laws of the *nizamiye* courts.

However, at the outset questions of law and jurisdiction began to arise. One plaintiff complained that the *nizamiye* court in Gaza did not accept appeals on decisions of the Beersheba council, while another asked the Jerusalem administrative council to serve as an appeal forum, and a third plaintiff requested the *şurayı devlet* to set as a cessation court. In some cases, both the Jerusalem council and the *şurayı devlet* looked into appeals, however their action received some criticism from different Ottoman departments as being incompatible with the legal provisions. On the ground, people were conducting forum shopping to achieve their best results.

The Beersheba experience represented one case of state-society relationships, which embodied the tensions and workings between the Ottoman goal to creating an integrated system of rule and the creation of new accommodating legal system. Nevertheless, looking into the imperial legal orders, even after the *tanzimat*, we see that accommodating legal cultures were not rare. The jurisdictional tensions signified the complexity of the socio-economic affairs of the region and its environs, as well as the shifting understandings and categorizations of specific legal, spatial, and social realities by governmental and social actors (including courts, judges, regional governors, tax and land registry staff, inhabitants and local leaders). The legal culture that had evolved continued in the post-Ottoman period and impacted the later British Mandatory judicial system in the region.

(The research utilizes archival resources from the Ottoman Basbakanlik Archives; the Israel State Archives; Personal Papers; and Interviews).

Ebru Aykut, Mimar Sinan Fine Arts University
Revisiting the Basic Legal Principles of the *Tanzimat* in Light of a Customary Practice: House-Burning and *Usul-i Cibal*

The two of the fundamental tenets of the Tanzimat's legal project were the principles of personal criminal liability and legality according to which no one could be punished for an act without standing trial and before his/her guilt was proven in line with the kanun and sharia. This paper aims to revisit these premises by focusing on a particular local customary practice that had reportedly been in force since time immemorial among Albanian highland communities.

Setting fire to the house of a murderer, who took flight after his act, was part of the ancient Albanian customary law known as the Kanun of Lek Dukagin or Usul-i Cibal (Mountain Law). In such cases, fire

was a means of extinguishing collective outrage, an extra-judicial punishment carried out usually by the village community and warranted by local governments. The house-burning custom had been outlawed in 1854 by the Ottoman state for the obvious reason that punishing the innocent families of murderers along with the perpetrators without due process of law was against the very principles of the Tanzimat. It should also be recalled that the punishment for the crime of arson was death penalty according to the 1858 Penal Code. Nevertheless, the archival evidence suggests that this custom did not disappear because the killers, in most cases, could not be captured and arrested and even if they were captured, the local people preferred a quick restitution of justice by fire without delay rather than seeking official punishment to be inflicted on the perpetrator that could take a long time. In other words, the deterrent and immediate effect of the custom could not be substituted by any other means and thus, it remained legitimate in the eyes of the local communities as well as local authorities who had no choice but to acknowledge its force and benefits to maintain public security and order in the area.

Focusing on this particular component of the customary law in the context of nineteenth-century legal reforms, this paper aims to highlight the complexity of the legal order in the Ottoman Empire and the role of popular understandings of justice and local dynamics in shaping the practice of law which did not necessarily require a consistency with the letter of the law. Not surprisingly, this inconsistency, or rather the existence of multiple legal spheres in an era marked by centralization, codification, and standardization efforts, resulted in contentions between the imperial center and the provincial governments, but at the same time provided the families of the murderers with a legitimate ground to raise their voices against the custom and ask for the implementation of justice in accordance with the kanun and sharia.

Hümeyra Bostan, İstanbul Şehir University
New Means of Providing Justice in a Distant Province: Ottoman Judicial Reform in Yemen (1872-1918)

This paper deals with the introduction of a new judicial organization in the Province of Yemen after 1872 when the second Ottoman conquest of the region took place. Examining the ebbs and flows in the process of the establishment of the new Ottoman court system called the *nizamiye* courts, I argue that the Ottoman state did not insist in uniform policies but had flexibility to use interim formulas to provide for the gradual transformation of the judicial system of Yemen.
The Ottoman state transformed gradually its legal organization after the promulgation of Gülhane Rescript in 1839. A codification of Islamic principles and an adaptation of Western laws followed along with a new system of courts. However, the consolidation of the new legal organization in Yemen took some time. The Ottoman government established *nizamiye* courts in the provincial center and in most sub-provinces and districts by 1879. Because the Yemenis were unaccustomed to applying to courts, the state reorganized the court system with some modifications and then decided to abolish the *nizamiye* courts but sustained the *şer'iyye* courts in 1889. Subsequently, the government transformed the *şer'iyye* courts in ways that authorized them to implement *nizami* law. This study examines how "legal reform" was instituted in Yemen and how or to what extent these new legal categories and institutions facilitated Ottoman rule. This complicated and multi-dimensional story of the court organization in Yemen indicates the Ottoman state's commitment to its principle of flexibility and toleration in providing justice to all its subjects.

Omar Y. Cheta, Bard College
"Wakil" and "Avukatu": On the Politics of Legal Language in Late Ottoman Egypt

This paper is an attempt to contribute to the study of legal language in the Ottoman Empire through revising the history of the legal profession in late Ottoman Egypt.

From the 1830s onwards, the Ottoman Empire witnessed a period of intense legal transformation. Simultaneously, Egypt, a largely autonomous province within the Empire, was the site of parallel legal experiments that resembled those being formulated in the Ottoman center. In both Istanbul and Cairo, a novel legal infrastructure consisting of Ottoman and continental European components was being constructed, elaborated on and frequently revised. This infrastructure would gradually become the primary field upon which Ottoman subjects, as well as, in certain cases, foreign residents and travellers, negotiated the resolution of their disputes in accordance with legally sanctioned procedures. The language that elucidated the contours and mechanisms of this infrastructure was marked by tensions between the apparent meanings of legal concepts and categories, and the meanings of these same categories as understood and deployed by the numerous individuals who navigated the sphere of law.

This paper explores this tension through focusing on the category of "legal practitioners"; a category that was re-conceptualized during the nineteenth century. Through systematically exploring the roles carried out by individuals who held the titles of "wakil" and "avukatu" inside nineteenth courtrooms, the paper will trace the emergence and transformation of a particular kind of legal practitioner, namely, the professional lawyer. The geographical focus of the paper is Cairo, arguably, the alternative center of legal experimentation in the nineteenth-century Ottoman Empire. In terms of sources, the paper will draw on both Istanbul and Cairo-issued legislations, a host of commercial and civil disputes litigated in Cairo (in both state-enacted courts and European (esp. British) consulates), as well as contemporaneous commentaries, such as travel accounts and memoirs.

Dzovinar Derderian, University of Michigan
Marriage Law as a Site of Resistance, 1840s-1870s

The multi-confessional setting in the eastern Ottoman provinces provided a number of legal venues for the local inhabitants to contest the regulations of their confessional communities. In the proposed paper I focus on marriage law and ask how and why marriage presented a central domain for contesting power. During the era of the Tanzimat (1839-1876) the Armenian Patriarchate in Istanbul attempted to gain full control of the Ottoman Armenian Apostolic communities. The centralization of the patriarchate— linked to the centralization of the Ottoman state—was challenged in the provinces. Marriage was a domain in which the Istanbul Patriarchate sought to enforce the letter of the law, but faced multiple difficulties in doing so. I argue that by regulating marriage the patriarchate aimed to demarcate ethno-confessional boundaries and centralize its power in the provinces.

Petitions sent from Van and Erzurum to the Armenian Patriarchate and the Sublime Porte in Istanbul, as well as the Armenian Catholicosate in the Russian Empire from the 1840s to the 1870s, constitute the main archival sources of the proposed paper. I will also examine the reports, decrees, and public discourses (i.e., periodicals) regarding marriage. In this paper I question how individuals in the provinces of Erzurum and Van bended the boundaries of marriage law to resist the centralization of the patriarchate. Individuals looked for new legal avenues in cases of divorce, marriage of underage girls, marriage between relatives and limitations on the number of spouses. The petitions confirm that the Protestants and Catholic communities, the Kurdish sheikhs and Islamic courts provided individuals belonging to the Armenian Apostolic Church the opportunities to challenge their confessional legal boundaries of marriage. The existence of different centers of the Armenian Church provided an additional medium for trespassing marriage law. I ask how and why priests facilitated the violation of the Armenian Church's marriage law.

Wolfgang Egner, University of Constanz
The Negotiation of Entangled Law: The Global Context of Ottoman Law in Cyprus

The occupation of Cyprus by the British Empire established an exceptional case of international law that had a major impact on the local law in Cyprus. A contract with the Ottoman Sultan allowed "the Island of Cyprus to be occupied and administered by England". In the annex of this convention the British diplomat Layard accepted to perpetuate the local religious tribunals. But like in many colonial cases, the British at the same time wanted to introduce a new law inspired by the Indian code as part of a larger plan for reforming the island.

Thus the Medjlis-i Idare was replaced in its legislative function by a new legislative council that created new laws in Cyprus. But formally the island was still under Ottoman legislation and for many British lawyers Ottoman law nonetheless prevailed. The provincial Daavi Courts continued their work under the British administration but could be overseen by a district commissioner, who was entitled to overrule the judgment. The High Court of Justice was established as a new court for foreigners continuing the dual jurisdiction, but also mixing both jurisdictions by sending cases in which foreigners accused locals (Ottoman subjects) to the Daavi courts. There are many more examples for the coexistence of different legal norms in Cyprus, which created hybrid forms of law and legal practice.

In this talk I focus on the question of how the local Ottoman law was shaped by the interconnected system of the British Empire and by a comparison with other similar cases under foreign administration such as Bosnia-Hercegovina and Tunisia. The local and international negotiation process changed the law itself and at times even to the benefit of local jurisdiction.

Sami Erdem, İstanbul Şehir University
From *Fiqh* Book to Legal Text: Revisiting Continuity and Change in the *Majalla* as a Model for Traditional Content in Modern Form

The Ottoman Majalla represents the first attempt at a transition from a conception of law based on fiqh texts to that of law as a codified code in Islamic history. Codifying a portion of Islamic civil law and consisting of sixteen chapters, this corpus was prepared by a committee comprised by fiqh ulema and headed by Ahmed Cevdet Pasha, before being gradually brought into force between 1869 and 1876. The Majalla was highly important not just for the Ottomans but also for many Islamic societies in the formerly-Ottoman territories (most significantly, Egypt) as it either served as the model for codification, or was directly adopted in these countries during the 20th century. Although it was abolished in Turkey in 1926, it continued to function as the main source of codification in the area of civil law in many other Muslim societies. Moreover, the Majalla's significance went beyond codification processes, influencing experts' understanding of Islamic fiqh as manifested in the relevant literature.

This paper revisits the significance of the Majalla in two inter-related respects. The first concerns the formal/morphological novelty that the Majalla carried as an experience/experiment in switching from text-based understanding of Islamic law to that of legal application based on the idea of codified law. The committee preparing the corpus presented it as a modern fatwa collection and a new fiqh text containing the most respected legal opinions of the Hanafi school, further insisting that it maintained the traditional assumptions and principles of law in order to avoid the legitimation problem for this novel form in the eyes of the traditional ulema. Thus, the Majalla's formal novelty came to represent the main reference for later reforms, serving as a model for (re)producing the traditional content in a modern form.

Secondly, I will examine the Majalla's presentation of the notion of "change" as a basis of its legitimacy as fiqh text with a new form that was compatible with the modern(izing) society. The idea of change

was a highly significant theme in both the committee reports during the Majalla's preparation phase and the narratives of its authors (particularly in Ahmed Cevdet Pasha's anecdotes in his memoirs) as well as in its content. However, despite its bold promises, it failed to satisfy the expectations regarding the scale and depth of change in modernizing the Ottoman civil law, for it did not entail concrete and radical propositions or solutions in terms of the notion of change. Still, however, the very positive attitude toward "change" and the significance attached to it by the Majalla came to form the main reference point (and a legitimizing role) for later codification attempts.

Therefore, this paper discusses the tension between form and content in the Majalla in terms of the transition from fiqh text to legal text on the one hand, and the nature and future of the idea of change in it, paying attention to the interaction between law makers and socio-political context as well as to the Majalla's epistemological references, on the other.

Yusuf Ziya Karabıçak, McGill University
Greek Associations and Ottoman Legality in Late Nineteenth Century

The first Greek educational association in the Ottoman Empire was founded in 1861 in Istanbul. The first Ottoman Law of Associations was promulgated in 1909. It is hard to imagine that associations, regardless of the community their founders belonged to, acted in a legal chaos for 48 years. In fact, they did not. Although there was no law, the associations were bound and regulated by a certain number of government activities and discourses that gave them legality in the eyes of Ottoman officials. These activities and discourses allowed Ottoman officials to permit some activities while banning others. This paper discusses the ways in which Greek associations became legal and acceptable in this environment. Essential elements for this discussion are the words Ottoman official documentation used to describe associations (*cemiyet, kulüp, biraderlik*), the prerequisites the Ottoman officials asked from an association, and the way they dealt with each case. Legality of associations in the Ottoman Empire was determined through actions and correspondences for a very long time. Far from being a non-legal environment, this was a process of inclusion/exclusion which gave a freer hand to Ottoman officials and especially to local authorities. Reading these correspondences will help us reconstruct Ottoman officials' expectations to a certain extent.

In this paper, I will make use of Ottoman documentation surrounding Greek educational and philanthropic associations from 1860 to 1900s, to examine how Ottoman officials decided on the legality of public activities and what kind of a vocabulary they used to talk about it. This work benefits from studies done by François Georgeon, George A. Vassiadis, Haris Exertzoglou, Nadir Özbek and others on associations while addressing a hitherto neglected aspect of these activities: their legality.

Ceyda Karamürsel, University of Pennsylvania
Race, Ethnicity and the Making of Law in the Post-Circassian Expulsion Ottoman Empire

In 1861, a Nogay prince named Canpolat, expelled from the Caucasus and settled near Constanza in today's Romania, wrote to the Ottoman officials to complain about the "rebellious behaviour" of his five slaves that he brought with him. Canpolat Bey was one of many Caucasian noblemen who were dislocated from their native Caucasus lands during the Russo-Circassian war and settled in the Ottoman domains. Like many other Caucasian slave holders at the time, he sought ways to suppress his slaves' pursuit of freedom, inspired particularly by the abolition of trade in African slaves effected a few years prior. When Canpolat Bey submitted his formal complaint however, he was asked to pay a pençik tax for the slaves he owned. Utterly perplexed, he objected, claiming that pençik tax was not known to them in their native lands in Kuban. Nor was his ownership of the slaves a Şer'i matter, he contended, which could be litigated or settled at the court, for in Canpolat Bey's "transplanted" perception of law,

his ownership of his slaves was regulated primarily by customary law, known as *adat* in the Caucasus. His slaves were either obtained through such practices as blood money, princely plunder or were inherited from his family, whereas for the Ottoman state, slavery was regulated by Şer'i law, and accordingly slave or free status were determined at the Şer'i courts. For the slaves themselves, on the other hand, it was a whole different matter, which had the newly emerging international anti-slavery law as its focus that had already effectively bent Şer'i law and brought an end to the trade in African slaves. If the Şer'i law could be abrogated once for the African slaves, why would it not bend for the Circassians? Using Ottoman state archives, court records and British consular documents, this paper aims to explore how different legal systems interplayed with or worked against each other in determining the limits of slavery and freedom, which concomitantly delineated the categories of race and ethnicity more explicitly in the late Ottoman Empire.

Aylin Koçunyan, CETOBAC, EHESS
French Impact on the Legal Transformation of the Millet System in the Ottoman Empire, 1856-1865

The Crimean War (1853-56) had an important impact on the transformation and institutionalization of the millet-system in the Ottoman Empire. The conflict broke out due to a dispute between Catholic and Orthodox clergy over the control of the Holy Places in Palestine and triggered the religious clientelism of the Great Powers. In order to preserve its sovereignty in the governance of non-Muslim communities, the Ottoman state had to conceive a new legal framework that would guarantee their religious freedom and privileges. Hence, community regulations were proclaimed by the Greek Orthodox, Armenian and Jewish communities in the period extending from 1862 to 1865. Another consequence of the Crimean War was the admission of the Ottoman Empire to the Concert of Europe, a process which necessitated the conciliation of the principles governing the Ottoman/non-Muslim communal sphere with those of their European counterparts. The project pays attention to the restructuration of the Ottoman Armenian and Jewish communities in a period that followed the Crimean War and the promulgation of the 1856 Reform Decree, which invited them to revise their community regulations. On the one hand, it tries to reconstruct the impact of the French consistorial system (a body created in1808 by Napoleon I and governing the Jewish congregations of France) on the transformation of the Ottoman Jewish community in the 1860s and the agency of the transnational communal networks behind the process. On the other hand, it shows how the Armenian intelligentsia which drafted the Armenian regulation tried to adapt the elements of French constitutionalism to the Ottoman context for the administration of their communal sphere. The research combines many sources including the Ottoman Archives, the French national and diplomatic archives, those of the Alliance israélite universelle and of the Israelite Central Consistory of France and of the Bibliothèque Noubar.

Ileana Moroni, University of Basel
The Parliament as Law-Maker in the Ottoman Empire in the aftermath of the 1908 Revolution

In this paper, I will discuss the Parliament as law-maker during the first year of the Second Constitutional Period, 1908-09.

The 1908 revolution profoundly affects the Ottoman political system. Following the restoration of the 1876 Constitution, and the opening of the newly elected Parliament in December 1908, sovereignty is transferred from the sultan to the nation, and the Parliament becomes the key political institution of this period. Even though the influence of extra-parliamentary and extra-legal methods, as well of as of social dynamics, on the law-making process, should not be downplayed, laws are henceforth discussed and decided upon in the Parliament, a representative institution which asserts sovereignty in the name of the nation, and which utterly also defines the limits of legitimacy in the new political system.

I will first briefly present the conditions within which the Parliament is convened, how deputies are elected, and what the prerogatives of this legislative body are, according to the 1876 Constitution. Then, I will examine within which conditions, through which procedures, and based on which precepts the Ottoman Parliament acts as a legislator. Deputies see their assembly as a revolutionary Parliament; in addition, more than on the letter of the Constitution and on the Parliament's internal regulation, they base their practice and their arguments on what they call the "spirit" of the constitutional regime, on European examples, as well as on the need to act swiftly in order to safeguard "order", "unity" (key concepts in their discourse), and, utterly, the nation.

Thus, even though law-making is now supposed to rely on the written rules set by the Constitution, parliamentary practice points, more than to rule of law, to a kind of "state of exception" in which a "revolutionary" Parliament is allowed to make whatever decisions it sees fit for the "salvation of the nation".

Fatma Öncel, Boğaziçi University

Law and Struggle in Ottoman Rural Society: *Çiftlik*s of Trikala

In this paper, I propose to discuss the making of law regarding land and property in the Ottoman countryside during the nineteenth century. As a part of my PhD research, I intend to focus on competing legal and social claims on agrarian lands in the Ottoman Balkans. Challenging the normative approaches to law, I will discuss the relationship between legal and social spheres both in conceptual and empirical means. Conceptually, an institutional approach to the making of nineteenth-century Ottoman land law is proposed based on the idea of legal pluralism; as the interests of competing social groups were institutionalized within multiple legal claims. Making of law is regarded here as an institution with its own dynamics, transcending legal reforms of the period. Also from a revisionist class-based analysis, I will discuss the mutual reproduction of law and society. Empirically, I intend to show the coexistence and competition between different legal claims on land raised by the peasantry, local nobility, and centralising state power. For that purpose, I examine a number of *çiftlik*s at Trikala (Thessaly, Greece) during c. 1820s-1870s. These *çiftlik*s belonged to different legal frameworks as *miri* and *vakıf*, and their records ("defters") were kept for various purposes, such as enlisting possessions and revenues of *çiftlik*s after confiscations, or account books comparing claims of peasants and *vakıf* deputies. These records included extensive information about land and about people working on it. Moreover, they presented details of contracts between peasants and landlords, and obligations of landlords to the central authorities. Therefore, I intend to highlight differences of legal claims in two layers; first, the ones due to rent and labour relations within *çiftlik*s; and second, the ones due to legal status of *çiftlik* lands.

Christian Sassmannshausen, Freie Universität

When the Court Visited Home: Legal Out-of-Court Sessions and the *Manẓūl* in Late Ottoman Tripoli

The making of law in the Ottoman Empire was a complex process based on various legal sources, institutions, and practices on both the imperial and local level. Nineteenth-century Ottoman reforms further differentiated the legal landscape, adjusting the basis of law, its institutions and establishing at least nominal legal equality of all citizens. Yet for all we know about Ottoman law on a theoretical level, we know remarkably little about how it actually worked in practice.

This paper focuses on local legal spaces and their interplay with the Islamic court in late Ottoman Tripoli (Greater Syria). In out-of-court sessions held mostly in *manẓūl*s, the reception halls of Muslim and Non-Muslim families, petitioners from very different social backgrounds (often from the same *mahalle*) settled a variety of legal cases. These out-of-court sessions, although still held under the auspices of the Islamic court, were led not by the judge but by the local court scribe (*kātib*). As such,

the *manzūl* functioned as an exclusively local legal space, attended by a local *kātib* functioning as a judge, the hosts of the *manzūl* as well as local petitioners and witnesses. What's more, most of the scribes in charge of such sessions were sons or close relatives of influential hosts of the reception halls. These semi-private court sessions, held in almost every quarter of the city, thus constituted a complementary legal space that excluded externally-appointed judges in favor of locally based court scribes with close ties to the *manzūl*'s hosts. As such, imperial policies in the legal sphere intending to contain the accumulation of local power – in this case, the more frequent rotation of judges – were incorporated into pre-existing forms of mediation outside of the court. Out-of-court sessions allowed the hosts of *manzūl*s to safeguard particular legal decisions in the city. This strengthened the influence of informal mediation and allowed for the application of local notions of justice. The importance and longevity of these complementary legal spaces gives us new insight into the many layers of Ottoman legal culture and offer a new paradigm for how we understand local legal culture in practice.

William Smiley, Princeton University
Sovereignty, Sharia, and the Şeyhülislam in the Age of Revolutions

This paper takes up the relationship between political power and legal authority in the tumultuous decades that followed Selim III's Nizam-ı Cedid reforms, but preceded the sweeping legal reforms of the Tanzimat. In this period, the Ottoman state was faced with internal turmoil throughout the Balkans, most notably in Serbia and Greece. The state responded by elaborating and applying the Hanafi law of rebellion to draw shifting lines between those who could and could not be killed and enslaved. At the same time, the state asserted, in the context of international diplomacy, that these rebellions were strictly within the Ottomans' own sovereign jurisdiction. Both state assertions and juristic opinions were constructed with attention to the Islamic legal tradition, the gendered economies of Ottoman slavery, military necessities, and diplomatic considerations.
The paper traces the interplay between these factors, in order to untangle how political motivations informed, but were also shaped by, Islamic legal reasoning. Ultimately, I argue, the Ottomans redefined Islamic law to fit this moment—but did so within certain boundaries, themselves set by the legal tradition. The paper draws on a number of *fetva*s, on imperial orders invoking them, and on rescripts (*Hatt-ı Hümayun*s), all from the Başbakanlık archives, as well as on diplomatic correspondence from the British National Archives.

In telling this story, the paper aims to challenge common assumptions about the relationship between *şeyhülislam*s and sultans, and more broadly, between the Islamic legal tradition and political authorities. At the same time, it situates the Ottoman Empire in the broader global context of the "Age of Revolutions," arguing that the new definitions of sovereignty the Ottomans articulated through Islamic law had much in common with concepts of international law that emerged from the Atlantic World amidst North and South American independence movements and the U.S. Civil War.

İlkay Yılmaz, Istanbul University
Stamping the Outsider Subjects Inside: The Passport Regulations in the Hamidian Period

This paper aims at analyzing the international (1884 and 1894) and internal (1887) passport (*mürür tezkeresi*) regulations which are highly indicative of the political elite's perception of security as well as the emerging infrastructural power tools of the modern state. The study tries to explain the disciplinary modern power mechanisms developed by the Ottoman political elite through the analysis of the administrative practices and regulations on geographical mobilization in everyday life as surveillance techniques.

In the Hamidian Era (1876-1908) the geographical mobilization is one of the burning issues of the Ottoman political elite as a part of security policies. The new threat perceptions of the political elites, mainly based on political problems, directed their attention to the Armenians, Bulgarians, seasonal workers, foreign workers and members of secret societies. Besides this, the new legislative and administrative security reforms are also influenced by the anarchist fear in Europe and the anti-anarchist regulations against "propaganda by deed".

The threat perceptions thus shaped the security discourse of the political center. The new articulations of "vagrant" (*serseri*) and "mischief" (*fesad*) create a discursive link to pejorative understandings of "anarchism" and "anarchist" in official correspondences. This security discourse also refers to the concept of social order and the pan-Islamic discourse of the Hamidian regime that is disseminated to obtain legitimacy in domestic and international spheres. It also refers to the security ideology which dwells on the intention of unifying the Empire against "internal and external enemies". The aim of the study consists in examining the relation between these emergent threat perceptions of the political center and the new regulations on geographical mobilization.

List of Participants (in alphabetical order)

Noémi Lévy-Aksu, Boğaziçi University, levy.noemi@gmail.com
Ahmad Amara, New York University, ahmadamara@gmail.com
Ebru Aykut, Mimar Sinan Fine Arts University, ebruaykut74@gmail.com
Marc Aymes, CETOBAC, EHESS, marc.aymes@gmail.com
Hümeyra Bostan, İstanbul Şehir University, humeyrabostan@std.sehir.edu.tr
Omar Y. Cheta, Bard College, ocheta@bard.edu
Dzovinar Derderian, University of Michigan, dzovinar@umich.edu
Wolfgang Egner, University of Constanz, wolfgang.egner@uni-konstanz.de
Sami Erdem, İstanbul Şehir University, samierdem@sehir.edu.tr
Yusuf Ziya Karabıçak, McGill University, yusuf.karabicak@mail.mcgill.ca
Ceyda Karamürsel, University of Pennsylvania, ceyda@sas.upenn.edu
Aylin Koçunyan, CETOBAC, EHESS, aylin.besiryan@eui.eu
Ileana Moroni, University of Basel, ileanamoroni@gmail.com
Fatma Öncel, Boğaziçi University, fatma.oncel@boun.edu.tr
Christian Sassmannshausen, Freie Universität, christian.sassmannshausen@fu-berlin.de
William Smiley, Princeton University, will.smiley@aya.yale.edu
İlkay Yılmaz, Istanbul University, ilkay.ylmz@gmail.com

List of Discussants (in alphabetical order)

Virginia H. Aksan, McMaster University, vaksan@mcmaster.ca
Noémi Lévy-Aksu, Boğaziçi University, levy.noemi@gmail.com
Nathalie Clayer, CETOBAC, EHESS, nathalie.clayer@ehess.fr
François Georgeon, CETOBAC, EHESS, georgeon@ehess.fr
Bernard Heyberger, CEIFR, EHESS, bernard.heyberger@ehess.fr
Dina Khoury, George Washington University, dikhy@gwu.edu

Team of the project "Trans-acting Matters: Areas and Eras of a (post-)Ottoman Globalization" involved in the workshop:

Marc Aymes, coordinator, CETOBAC, EHESS, marc.aymes@gmail.com
Sümbül Kaya, post-doctoral researcher, CETOBAC, EHESS, kayasumbul@hotmail.com
Aylin Koçunyan, associated researcher, CETOBAC, EHESS, aylin.besiryan@eui.eu

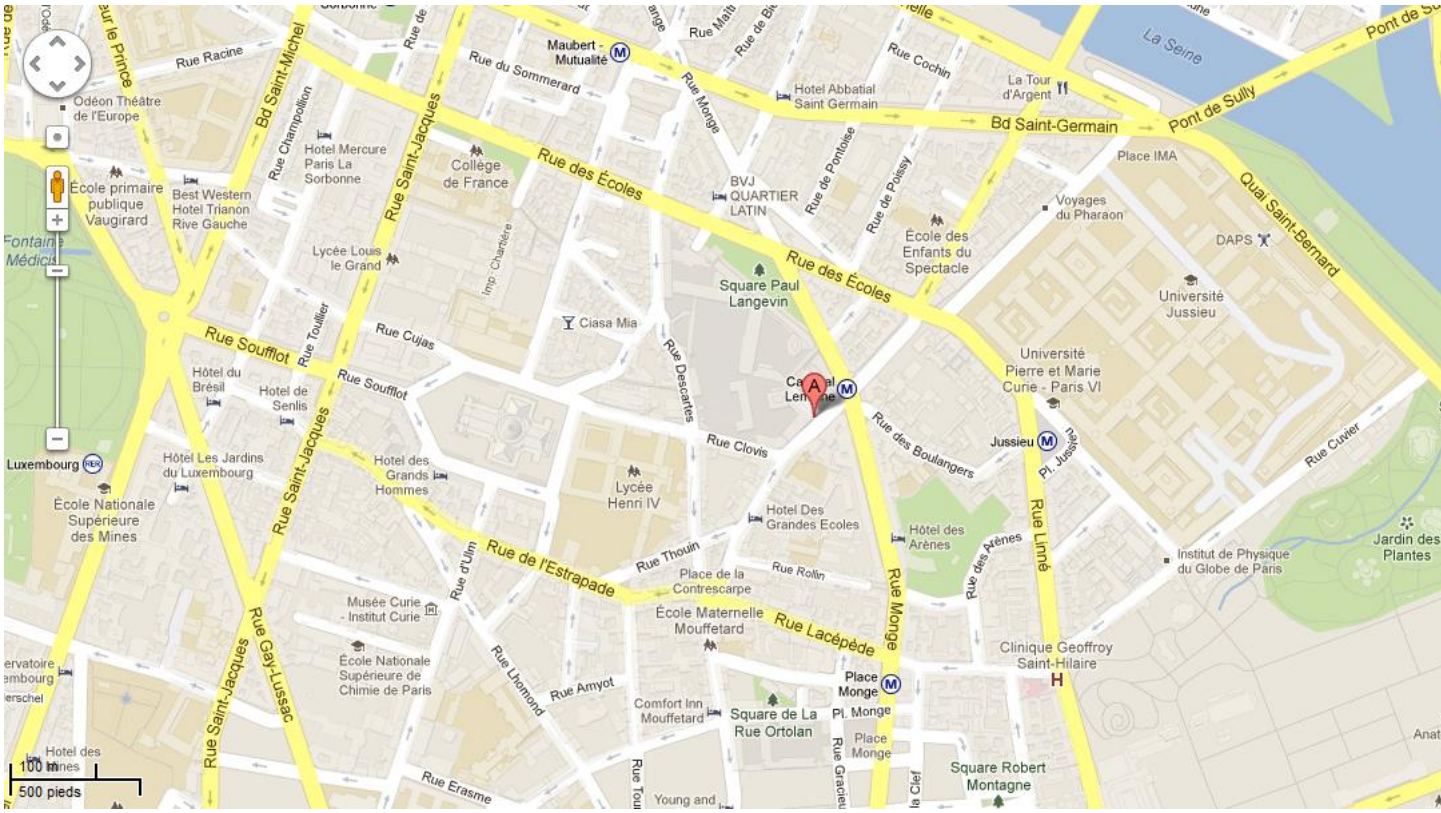
Phone numbers

Sümbül Kaya: 0666826678
Aylin Koçunyan: 0679670560

Workshop Venue

Collège de France, salle Lévi Strauss, 52 rue Cardinal Lemoine, Paris, 5e

MAP



Geolocalization on the bigger Paris map:
http://fr.wikipedia.org/wiki/Cit%C3%A9_du_Cardinal-Lemoine

Access:

Subway: line 10, station Cardinal Lemoine or line 7, station Place Monge
Bus: line 47 & line 89 (bus stop Cardinal Lemoine)

Restaurant name and address for our lunches on May 26th and 27th

Le Comptoir méditerranéen, 42 Rue du Cardinal Lemoine, 75005 Paris, Phone: 01 43 25 29 08