

# The Reconfiguration Of The Ottoman Empire In The Concert Of Europe: Appropriation And Adaptation Of International Law In The Hamidian Era (1876-1909)

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## Abstract

This study illuminates a crucial yet underexplored mechanism: how international legal norms were adapted to safeguard the caliphate's legitimacy and continuity under European hegemony. It examines how the Hamidian regime both adopted and reshaped international law—as a regulatory framework and as a strategic bargaining tool to preserve dynastic survival. Drawing on a historical-critical methodology that combines primary-source archives with Ottoman intellectual discourse, this research uncovers the dialectical interaction between the Islamic legal tradition of *siyar* and modern international-law constructs. Findings reveal a fundamental paradox: Ottoman integration of international norms both signified subordination to European diplomatic standards and served as an adaptive realpolitik strategy amid shifting global geopolitics. By reconstructing Ottoman international relations from a non-Western perspective, the study offers historiographical innovation and yields conceptual insights for contemporary Muslim-majority states formulating foreign policy in the face of enduring hegemonic pressures.

*Penelitian ini penting karena menyoroti aspek krusial yang sering terlewatkan: mekanisme adaptasi hukum internasional guna mempertahankan legitimasi dan keberlangsungan kekhilafahan di tengah dominasi kekuatan Eropa. Penelitian ini bertujuan menguraikan bagaimana Rezim Hamidian mengadopsi dan mengadaptasi hukum internasional, baik sebagai instrumen regulatif maupun sebagai strategi negosiasi untuk mendukung keberlangsungan kekhilafahan. Dengan pendekatan historis-kritis yang menggabungkan analisis arsip primer dengan wacana intelektual Utsmani, studi ini mengungkap interaksi dialektis antara konsep siyar dalam tradisi hukum Islam dan konstruksi hukum internasional modern. Hasil penelitian mengungkap paradoks fundamental, dimana integrasi tersebut mencerminkan subordinasi terhadap norma diplomatik Eropa, sekaligus sebagai strategi realpolitik adaptif dalam menghadapi dinamika geopolitik global. Penelitian ini menawarkan kebaruan historiografis dengan pendekatan non-Barat dalam merekonstruksi narasi hubungan internasional Utsmani, dan implikasi konseptual bagi konstruksi kebijakan luar negeri dunia Islam kontemporer dalam merespons tantangan hegemoni global.*

## A. INTRODUCTION

The diplomatic transformation of the Ottoman Empire as the largest and last Islamic caliphate has attracted the attention of historians and international relations experts, particularly in the context of an adaptive *realpolitik* approach to a set of international legal norms and modern diplomatic practices. Although the Ottomans had developed interactions with European public law norms through the practice of capitulations and bilateral treaties long before the 19th century (Khadduri, 1972), after the increased penetration of European great powers in the 19th century, the Ottomans underwent further transformation (Aral, 2016). In this century, the 1856 Treaty of Paris marked an important phase that further strengthened the institutionalization of international law concepts in the construction of Ottoman foreign policy, particularly during the Hamidian Regime (Genell, 2020).

A number of scholarly publications in international relations studies have sought to explore these dynamics and provide an important foundation for such research (Gozzi, 2010; Horowitz, 2005). However, most of these studies remain focused on a positivist narrative that emphasizes the dominant role of Europe in shaping the international legal order when interpreting Ottoman diplomatic transformations. Or the study conducted by (İhsan Süreyya Sırma, 2006), which tends to use ideational approaches in assessing the Hamidian period, particularly regarding the Pan-Islamic discourse, without systematically tracing the normative and strategic agency exercised by the Ottoman elite in formulating a distinctive legal-diplomatic response.

(Gozzi, 2010), for example, positions the 1856 Paris Treaty as the initial momentum for Ottoman involvement in international legal dynamics, as if their acculturation process toward international legal norms only began at that point.

However, the relationship between the Ottomans and European public law was not a product of the 19th century, but had deep historical roots through the practice of capitulations and other bilateral treaties even from its inception, which created a form of cross-border legal interaction. Thus, the Ottomans had their own historical agency and legal epistemology—*siyar*—which cannot be reduced to a merely subordinate narrative (Çelik, 2011).

Other studies, such as those conducted by Khadduri (1959, 1972), emphasize the evolution of international Islamic diplomacy, highlighting several important events such as the permanent political division of the Islamic world in the 16th century; the

Süleyman–Francis I (1535) and Carlowitz (1699) treaties as the starting point for the acceptance of state equality and other principles of international law. However, his studies are often separated from the context of the decline of Ottoman hegemony in the 17th century and the penetration of European powers in the 18th to 19th centuries.

In fact, the diplomatic transformation of the Ottoman Empire arose from the dialectic between intense external pressure—the penetration of major European powers and waves of nationalism—and the strategic decision of the Ottoman elite to modernize its political instruments through the appropriation and adaptation of the framework of international law (Pandawa, 2021).

As a result, the traditional Islamic legal framework and the Ottoman elite's realpolitik adaptation process—including the systematization of international law education and the establishment of a legal advisory corps during the Hamidian era—have never been studied holistically in a single historiographical continuity.

This is where the absence of a historical-holistic approach that combines institutional dynamics—such as the reform of the Mekteb-i Hukûk curriculum and the formation of a legal advisory corps—with the practice of international diplomatic litigation becomes a significant epistemic gap.

This gap can be explained through three root causes: First, the dominance of positivist epistemology in international legal historiography, which emphasizes structural determinism over non-European actors or the use of an ideational approach in assessing the Hamidian regime period, particularly regarding the Pan-Islamic discourse. As a result, the practice of *siyar* with the dynamics of modern international law has not been explored in depth; second, researchers have limited access to Ottoman Turkish archives, particularly diplomatic archives and intellectual records such as those of Şehbaz Efendi and Hasan Fehmi Pasha. As a result, the role of Ottoman elites during this period, who proactively politicized international law for the sake of sovereignty and political legitimacy, has been under-explored; Third, the lack of a conceptual framework bridging Hamidian-era international law practices with contemporary foreign policy dynamics in the Islamic world.

This research is limited to the period of intensive transformation during the Hamidian Regime (1876–1909), with a primary focus on the role of the 1856 Paris Treaty as a catalyst for the institutionalization of international law. Although the 1856 Paris Treaty was ratified two decades before the Hamidian Regime, the impact of this legal transformation accumulated through gradual reforms in the legal education

system and the formulation of legal bureaucracy, which reached full consolidation during the Hamidian era. Thus, the objective of this research is to examine the historical process of Ottoman involvement in the international legal system before and after the Paris Treaty, critically analyze the Ottoman elite's strategy in using international law as an instrument of sovereignty defense, and assess the historical implications of this for the formulation of contemporary Islamic foreign policy, particularly in the context of global power dynamics.

This research fills this gap by: First, affirming the strategic agency of the Ottoman elite in proactively politicizing international law for the sake of sovereignty and political legitimacy; Second, reinterpreting the 1856 Paris Treaty not as the absolute beginning of the emergence of the idea of international law, but rather as part of the development of Ottoman participation in modern European diplomacy; and Third, the Hamidian legal diplomatic *modus operandi*—including the Mekteb-i Hukük curriculum, the legal advisory corps, and diplomatic litigation—as a manifestation of adaptive *realpolitik*.

Thus, the novelty of this study lies in its diachronic-holistic approach, which integrates the evolution of *siyar*, the decline of hegemony, colonial dynamics, and Hamidian reforms into a single coherent narrative, while offering a new conceptual model for the historiography of international relations and the formulation of contemporary Islamic foreign policy.

## **B. RESEARCH METHODOLOGY**

This study is formulated as a historical case study of the diplomatic transformation of the Ottoman Caliphate during the Hamidian regime (1876–1909), with the 1856 Treaty of Paris as the main focus of analysis. This comparative model facilitates the mapping of the institutional evolution and diplomatic practices of the Ottomans in adopting international law from the pre-Paris phase, when Ottoman participation in international law was intermittent and reactive, to the post-Paris phase, where these norms were systematically institutionalized within the Hamidian bureaucracy and diplomatic practices.

Using a historical-critical approach, which includes heuristic stages, source criticism (verification), interpretation, and historiography (Kusdiana, 2024), as well as analysis that combines the Islamic *siyar* framework with the European *jus gentium* model in the geopolitical context of the Eastern Question.

The heuristic stage begins with an inventory of primary sources: official treaties and protocols, particularly the full text of the 1856 Paris Treaty (Imprimerie Turati, 1856) and the compilation *The European Concert in the Eastern Question* (Holland, 1885), which covers the proceedings of the Paris conference and related annexes on civil status and borders.

Contemporary publications (newspapers and political magazines)—The *London Gazette* (Nos. 21865–21866)—which describe Europe’s response to the post-1856 order changes, as well as the political magazine *Meşveret*, issue No. 125, titled “Berlin Congress,” which is a contemporary secondary printed source, not official diplomatic documents, but also as an organ of the CUP or *İttihat ve Terakki*, containing analyses of the diplomatic situation surrounding the Berlin Treaty (1878), based on articles written within the historical and political context of the Ottoman Empire at the end of the 19th century. This discussion is intended as a moral critique of Western imperialism, reflecting disappointment over the intervention of major powers in Turkish affairs. The Balkan region became a geopolitical contestation arena for Western powers, whose fate was determined by major powers such as Britain and Austria.

Ottoman documents—lecture notes from the *Mekteb-i Hukūk* and *Mekteb-i Mulkiye*, publications by Şehbaz Efendi and Hasan Fehmi Pasha, and legal advisor memorandums documented in several journal articles and digital collections.

At the source criticism stage, the authenticity of each document was verified through external criticism—bibliographic information checks, determining document authenticity, evaluating credibility, edition comparisons, and authenticity checks—as well as internal criticism, which served to elucidate how the Hamidian elite interpreted and mobilized key terminology—“sovereignty,” “independence,” “integrity,” and “non-intervention”—in various official documents and contemporary publications. Based on the conceptual construction of legal *realpolitik* that has been developed, the Ottoman elite did not merely quote the 1856 Treaty of Paris and the 1878 Treaty of Berlin rhetorically; rather, these actions were a manifestation of strategic agency whereby the Hamidian elite manipulated international law for their *realpolitik* needs, namely to support the narrative of political resilience and the legitimacy of the caliphate (Genell, 2020).

The interpretation stage relies on two main strategies: diachronic analysis, which traces the continuity of legal curriculum reform at the *Mekteb-i Hukūk* (1859–

80) during the Hamidian era (Mustafa Serdar Palabıyık, 2014), and the evolution of diplomatic litigation practices at the Legal Advisory Office. Synchronic analysis compares several cases of multilateral legal disputes in which Hamidian advisors strategically cited the 1856 Treaty of Paris and the 1878 Treaty of Berlin to reject intervention—demonstrating the application of legal *realpolitik* as a strategic negotiating tool.

This was done, for example, by Ibrahim Hakki Pasha, who protested against the practice of capitulation in the 19th century, which had weakened the Ottoman Empire's economic power and violated its sovereignty as an equal member of the 1856 Paris Treaty. Other Ottoman legal experts, such as Osman Sermed (a professor of international law and constitutional law at the Salonika Law School), Hasan Fehmi Pasha, Hrant Abro, Ahmed Resid, and others, not only protested the issue of capitulations but also the intervention of major powers in Egypt, the Balkans, Crete, the Ottoman-Italian legal contest -Italian legal disputes in the Red Sea and North Africa, as well as colonial occupations following the Berlin Congress of 1884-85, issues of autonomous administration in Mount Lebanon, and others as violations of the principle of non-intervention referenced in the 1856 Paris Treaty and the 1878 Berlin Treaty (Aral, 2016; Genell, 2020).

This analysis reinforces the theoretical conclusion that the Hamidian elite successfully assimilated and rearticulated international law through the lens of *siyar*, creating a unique model of legal diplomacy at the intersection of Islamic tradition and European *realpolitik*.

This confirms that although Ottoman interaction with European public law had been going on for a long time, the 1856 Treaty of Paris triggered a major transformation and how the Hamidian elite actively utilized international law to maintain sovereignty and legitimacy. However, in practice, such methods could not withstand the interference of major powers.

## **C. RESULTS AND DISCUSSION**

### **1. The Ottoman Empire as a Major Power on the International Stage**

During a period when the Muslim world was enveloped in peace and stability, expansionist practices were largely confined to the Byzantine Empire. (Roger B. Manning, 2016). Even after a long period of confrontation during the Crusades against Christian European states, the tendency to end this ideological conflict can be traced

back to the Abbasid era, long before the Ottoman Empire was established. With the experience of prolonged warfare, each side began to realize that it was impossible to impose their legal order on the other for an extended period of time. (Khadduri, 1972)

For more than two centuries after the Crusades, the confrontational relationship between Muslim and Christian nations was described by Don Juan Manuel (crown prince and nephew of Ferdinand II and cousin of Alfonso X of Spain in the 13th century) as a “guerra fria” (cold war) (Khadduri, 1972). Eventually, relations between the two gradually reached an agreement to conduct relations based on principles and rules acceptable to both sides, not based on religious doctrine, but on the principles of reciprocity and mutual interest during the reign of Sultan Suleyman the Magnificent in the early 16th century.

As the spirit to realize the classical ideal of universal governance faded among the Arabs and Moors, another ethnic group emerged from the Central Asian steppes to lead the Islamic Holy War. The far more ambitious Ottoman Turks began to set their sights on the Byzantine Empire by conquering Anatolia, Constantinople, the Balkans, controlling the Mediterranean, and the former western territories of the Roman Empire (Waginugroho, 2023). Not only that, the ambitions of the Turkish sultans extended to claims of caliphate, which was finally seized by Sultan Murad I at the end of the 14th century from the Abbasid Caliphate, granting him the authority to wage Holy War against Christianity (Hidayat et al., 2020).

The rise of the Ottoman Turks as a formidable military power not only revived the Crusade ethos in Western Europe and created a chain of prolonged confrontations, but also contributed to shifting the orientation of the Crusade movement from the perspective of European Christian nations, which had originally aimed to reclaim the Palestinian territories, into a desperate effort to defend Europe from Turkish expansion (Pandawa, 2022).

After the conquest of Constantinople (1453), the Ottomans developed into a major power in the Balkans and the Mediterranean through significant territorial expansion—the conquest of the Balkans, Anatolia, and the former Byzantine Empire (Miller, 2008), shifting the balance of power in Southeast and Central Europe and shaking the hegemony of Christian Europe. This expansion consolidated the authority of the sultan and the position of the caliphate at both the regional and global levels, which lasted for nearly four centuries (13th–17th centuries).

## **2. Significant Decline in Hegemony and Ottoman Integration into the European Diplomatic System**

But let us open our eyes and horizons to a broader historical dimension. Through our long historical records, we can see a picture of the dynamism of a complex civilization. Téodore Jouffroy, for example, asserts that Islam's achievements as one of the world's great civilizations have now relatively declined, especially after the defeat at Lepanto (1571) and the stagnation following the conquest of Cyprus. In the 17th century, European military alliances successfully drove the Ottomans back from Vienna and Hungary (Roger B. Manning, 2016), marking a decisive turning point in the empire's history. Under increasing international pressure regarding the integrity of its territories, the Ottomans adopted the principles of European public law (*jus publicum Europeum*) in the 17th century, marking a transition from the classical Islamic legal system to a modern international legal approach as a form of strategic adaptation (Adanir, 2005).

The Treaty of Carlowitz (1699) marked the first time the Ottomans officially recognized their opponents' territorial boundaries through the establishment of a negotiated demarcation line. This was a modern step in Ottoman diplomatic history, reflecting a shift from claims of global hegemony toward acceptance of the territorial state order. The significant decline in hegemony in the 17th century prompted the Ottoman elite to realize that expansion in Europe had come to a halt, and the universal character of the caliphate was beginning to be replaced by a territorial-based Islamic state system (Burgis, 2009; Palabiyik, 2014; Khadduri, 1972).

In subsequent developments, Ottoman foreign policy became increasingly defensive and pragmatic, no longer reflecting the distinctiveness of Islamic power (Mohametan), especially in its relations with European states. Over the centuries, Turkey was no longer perceived as a representation of Islam that was the collective enemy of Europe, and the concept of "Holy War" (*jihad*) lost its relevance as a basis for policy (Perkins, 2004).

*Jihad* as a concept of just war in advanced international humanitarian law, developed by Islamic civilization centuries before the Hague and Geneva Conferences, has lost its relevance in the ever-changing international context (Burgis, 2009). The international image of Islam continues to be tested by global dynamics that are not only influenced by the internal decline of the Ottoman Empire, but also by the



development of post-Westphalian international law, which affirms the system of sovereign states and the principle of sovereign equality as a new norm (Burgis, 2009).

At the same time, European scholars began to codify the laws of war and peace into binding international law. Hugo Grotius, the formulator of the principles of natural law applicable to all nations, civilized or not, replaced the dominance of Christian dogma in international affairs. With the emergence of the concept of a modern community of nations and secular principles, jihad, which previously had legitimacy as a form of Islamic humanitarian law, was eventually displaced by an international legal regime considered universal.

This decline did not only occur on land but also in their maritime power, which had long been the cornerstone of their regional influence. Interestingly, this maritime decline was closely linked to global changes that escaped the Ottomans' serious attention: the opening of alternative sea routes between Europe and Asia by the Portuguese in the 15th century (Lincoln Paine, 2013), shifting the center of gravity of world trade from the Mediterranean to the Atlantic (Toynbee, 1953), and gradually weakened the economic and political position of the Middle East, including the Ottomans, as the main transit route. This trade revolution laid the initial foundation for European colonialism in Asia and Africa, strengthening their dominance over strategic ports and effectively encircling the Middle East (Lewis, 2002).

Under serious pressure, Ottoman legitimacy was continuously challenged and threatened from within. The caliphate was then used as a tool of legitimacy and symbolic control, especially during the emergence of the ayans (local elites) in Arabia, spreading to the Balkans and Anatolia, which triggered complex political, military, and social instability. In response to this fragmentation, decentralization of power was gradually implemented, marking an important shift in the structure of Ottoman government.

### **3. The Need for Reform**

The decline of the Ottoman Empire, which lasted for centuries, further highlighted the global disparities in the international political order. While Europe developed into a center of modern power, the Islamic world, including the Ottomans, experienced a serious contraction of civilization. Thomas Thornton (1807) noted that since the sultan stopped waging jihad and civil-military capacity declined, Turkey not only fell behind but also experienced structural decline (Perkins, 2004).

Awareness of this decline triggered gradual reform efforts, not based on an idealized image of its past glory, but to adapt to the standards of progress set by the West (Lewis, 2002).

The tendency of the Ottoman elite to adopt a Eurocentric paradigm of state development cannot be separated from the historical failure of Islamic reform to formulate a clear and structured epistemological basis for revival. The ideas of revival that were put forward were often abstract and normative, trapped in slogans such as “Return to the Qur'an,” “Return to the Sunnah,” or glorification of the golden age of Islam, without a conceptual framework capable of addressing the historical and structural challenges faced.

(Casale, 2010) critically highlights this tendency as a form of excessive nostalgia for the era of Suleiman the Magnificent, which ultimately failed to materialize into an applicable cultural strategy in the modern context. Romantic sentiments toward the past lose their relevance when confronted with the complexity of political, economic, and social crises that have developed since the 17th century.

Efforts to reconstruct civilization, as argued by Lewis (2004), require a conceptual framework for civilization (blueprint) that encompasses philosophical ideas, systematic methodologies, and policy strategies that can be implemented in contemporary reality. The absence of these instruments has led Islam, in Ottoman political discourse, to be increasingly viewed as irrelevant as a normative and institutional framework for addressing the challenges of the times.

This situation is exacerbated by the development of a fatalistic culture in some Muslim societies, which tend to resign themselves to historical determinism and resist modern science and technological innovation (Çiçek, 2010). This fatalism is a counterproductive force that hinders the rationalization of civilization, while also distancing Muslims from the ability to critically and philosophically evaluate Western civilization—to distinguish which aspects can be adopted and which must be rejected.

Ironically, this situation gave rise to a new educated elite in Europe, particularly in France, who, despite their ambition to bring the Ottomans into the realm of modernity, demonstrated epistemic alienation from the social and historical context of their own nation (Davison, 1963). These bureaucrats were not systemic thinkers capable of formulating cultural or political theories as alternatives to the hegemony of global capitalism, as Karl Marx did in *Das Kapital*. They were more like imitative technocrats who imported the tools of modernity without understanding the

philosophical infrastructure that underpinned them—similar to figures in Japan's People's Rights Movement who adopted Western economic and political ideas with a spirit of patriotism, but without critically deconstructing the system.

Ultimately, the emergence of this class of intellectuals reinforced the European assumption that the stagnation of Muslim countries, including the Ottomans, was not merely the result of technical backwardness, but rather a deeper civilizational crisis—characterized by sluggishness, corruption, and failure to build a modern system grounded in rational and universal values as offered by Western civilization.

The critique of civilization that developed in Europe in the 18th century resonated strongly among the Ottoman elite. The military defeat and political stagnation of non-European countries, especially the Ottomans, were seen not merely as the result of technical weaknesses, but as symptoms of a cultural crisis and the failure of traditional civilizational systems—which were portrayed as slow, corrupt, and irrational. In the spirit of universalism, Europe offered a model of modern civilization as the standard for global progress.

In this context, the spirit of reform inspired by European ideas took root in Istanbul, triggering a gradual but comprehensive modernization project. The Ottoman elite began to restructure the bureaucratic system, align diplomatic practices with European standards, and adopt concepts such as equality among nations, the resident diplomacy system, and multilateral cooperation. The peak occurred after the French invasion of Egypt in 1798, which prompted the Ottomans to adopt *jus publicum Europeum*, such as the concept of 'the law of nations', as a legal instrument to maintain territorial integrity and negotiate interests in international forums (Palabiyik, 2014).

Commitment to European "civilization" standards was also evident in various policies: the opening of markets through trade agreements in 1838, the recognition of civil equality in the Tanzimat decrees (1839, 1856), and the implementation of a constitution and parliament in 1876. However, this transformation was not without internal resistance. For most of the population, modernization was seen as a rejection of Islamic heritage, while for the elite, it marked a critical point in the reconstruction of civilization toward a modern nation-state.

This ambitious transformation created a distance between the state and its people—a phenomenon that has parallels in history with Peter the Great's reforms in Russia. Like Peter, the Ottoman elite attempted to impose modernity from above, which in turn led to a polarization of civilization. In Russia, westernization divided the

soul of the nation—creating a chasm between the elite and the people, as well as an epistemological dilemma between the Slavophile group, which called for national authenticity, and the Westernizers, who revered the European model (Rabow-Edling, 2004).

This struggle for identity became a contest of civilizations that was never truly resolved. Peter's reforms, intended to elevate Russia to the stage of modernity, instead created long-term cultural alienation over the next three centuries. As Denilevsky noted in the 1920s, Westernization was seen as “disrupting the order of society by implanting various foreign institutions on Russian soil.” What happened in Istanbul followed a similar pattern: modernization built without adequate cultural foundations can lead to the disintegration of civilization and alienation between the elite and the people (Huntington, 2012).

Thus, the Ottoman transformation under global pressure and European inspiration was not only a process of institutional modernization, but also a complex civilizational crisis—with implications for identity, epistemology, and politics that continue to reverberate into the era of nation-state formation.

The Tanzimat reforms, particularly through decrees on civil equality and the relaxation of capitulations, indirectly created structural tensions within the Ottoman social order of the 19th century. Rather than fostering social integration, these reforms widened the divide between Muslim and non-Muslim communities, triggering a crisis of coexistence that was prone to escalate into horizontal conflict.

In the context of shifting global power, European states reformulated capitulations—which were originally bilateral and asymmetrical—into instruments of political hegemony. In the 19th century, capitulations were reinterpreted as the basis for legal protection and extraterritorial jurisdiction for non-Muslim Ottoman communities, effectively placing them under the diplomatic umbrella of foreign powers.

European embassies in Istanbul became autonomous political actors—*imperium in imperio*—that not only secured the interests of their subjects but also intervened in domestic affairs in the name of “reform.” This protection made non-Muslim communities *de facto* immune to Ottoman jurisdiction: exempt from taxes, duties, and courts, while enjoying access to a Western lifestyle that symbolized a new social status.

As a result, the legitimacy of the state eroded. The reforms, which were originally intended to create equality, instead gave rise to new inequalities that reinforced the structure of colonial cultural hegemony. The striking social gap between Muslims suffering from poverty and non-Muslims enjoying foreign protection deepened the sense of political alienation among Muslims.

In this situation, strong anti-reform sentiments emerged. Muslims viewed the Tanzimat not as a form of progress, but as a symbol of the state's betrayal of its own people's interests. They bore a heavy tax burden, did not receive fair legal protection, and had to witness the hedonistic lifestyle of the French-speaking Istanbul elite, who were alienated from the reality of the people.

As the authority of the caliphate declined and foreign intervention increased, the Ottomans lost their symbolic capacity as protectors of the global Muslim community. Ironically, in an effort to adopt the principle of universal equality, the state created a social structure that systematically deepened the exclusion and delegitimization of its own majority community (Çiçek, 2010).

The Tanzimat reforms indirectly paved the way for a process of capitalization that benefited the interests of European countries but undermined the Ottoman Empire's pre-capitalist economic structure. The Convention of Baltaliman (1838), which institutionalized the principle of free trade, had a destructive impact on local industries. The abolition of the monopoly system created economic dislocation: rising unemployment, dependence on imported goods, and the collapse of domestic production. The Ottoman Empire was instead pushed into becoming a consumer market serving foreign trade interests, while European nations simultaneously implemented strict protectionism to safeguard their own industries. Under these conditions, economic liberalization accelerated the Ottoman Empire's subordinate integration into the unequal global capitalist system.

Namik Kemal sharply highlighted the impact of this economic invasion: there was no longer a national economy, foreign products dominated the market, and local merchants were unable to compete due to capitulation that exempted European merchants from taxes and duties. Western industrial mass production displaced local crafts, leading to mass bankruptcies and deepening poverty among Muslim communities. In this narrative, the Tanzimat, originally envisioned as a path to modernization, instead deepened structural inequalities, transforming Ottoman society into a marginalized labor force within a system dictated by external powers.

This modernization project without economic sovereignty created a paradox: reforms promising progress instead brought new forms of external domination and internal social disintegration (Çiçek, 2010).

The rights and freedoms granted by the sultan to non-Muslim subjects sparked religious reactions, growing resistance, and an outburst of anger among the majority Muslim population, who viewed the decrees as a violation of their religious laws, regulations, and privileges.

The sectarian violence that erupted in Damascus (1840) and Aleppo (1850) marked a new crisis in the social structure of the Arab-Ottoman region. Accusations of murder against the Jewish community and attacks on Christian residents did not stem solely from religious fanaticism but reflected the accumulation of deeper economic and political tensions. The Tanzimat reforms and the capitulation system created structural inequalities: non-Muslim minorities, through their commercial networks and European diplomatic protection, gained striking socio-economic advantages. For many Muslims, the violence was a form of collective frustration over alienation, poverty, and experiences of exclusion in a legal and economic order increasingly dictated by foreign powers (Rogan, 2018).

European countries responded to these incidents with “civilization” rhetoric, demanding legal reforms and tolerance as universal values. However, they ignored the fact that the Ottomans had adopted modern and secular legal principles—such as equality of citizenship and a civil court system—while marginalizing their own contribution to the crisis, including through economic intervention and extraterritorial jurisdiction. Meanwhile, in their own colonies—such as Algeria—there was no equality before the law or religious freedom. France ruled in a manner far more intolerant, discriminatory, and oppressive than the Porte ever did (Rodogno, 2016).

Western colonial powers justified military intervention against the Ottomans on the grounds of “barbarism.” In this context, “civilizational standards” functioned more as an instrument of hegemony than as universal ethical principles, and Ottoman reforms actually exacerbated internal social tensions, paved the way for fragmentation, and made the Levant a region highly vulnerable to imperialist exploitation and intervention (Ozavcı, 2021).

#### **4. Contestation and Intervention by European Countries in the Eastern Question until the Integration of the Ottoman Empire into the Concert of Europe**

Ironically, the Ottoman Empire, which had been a global power for centuries, had now become a zone of contestation, intervention, and direct colonialism by European countries, threatened from within by rising nationalist sentiment. The Ottoman Empire's domestic problems quickly developed into international issues that were transformed into the Eastern Question.

The Eastern Question essentially reflects the geopolitical projections of major European powers onto the structural decline of the Ottoman Empire. After the Treaty of Küçük Kaynarca (1774), which marked the rise of Russia, and French intervention in Egypt (1798), internal Ottoman issues—the wave of Balkan nationalism and tensions among non-Muslim communities—were raised as issues of cross-border power balance. Under this narrative, the Levant became a “zone of contestation” where opportunities for investment and military and economic intervention were disguised as collective efforts to maintain regional stability, while diplomatic “collectivism” legitimized European subordination practices (Ozavcı, 2021).

From 1821 to the mid-19th century, the Ottoman Empire was embroiled in a series of major crises related to the Eastern Question: the Greek War of Independence (1821–1829) that shook the Balkans, the French invasion of Algeria (1830), the rebellion of Mehmed Ali in Egypt (1831–1841), the post-Hünkâr İskelesi Treaty straits dispute (1833–1841), and the extraterritoriality issue that triggered the Crimean War (1853–1856). Each crisis not only highlighted the military and political weaknesses of the Porte but also forced the Ottomans to participate in multilateral conferences, strengthening European demands for a balance of power over the “Turkish question,” (Kramm, 2020; “The London Gazette Extraordinary,” 1856), and paved the way for their integration into the architecture of the Concert of Europe through the 1856 Treaty of Paris, as affirmed in Article 7.

Article 7 of the 1856 Paris Treaty states that “the Sublime Porte [is recognized] as participating in the benefits of the European system and public law (concert).” The text reads as follows:

Sa Majesté le Roi de Sardigne; Sa Majesté l'Empereur d'Autriche, Sa Majesté l'Empereur des Français, Sa Majesté la Reine du Royaume-Uni de la Grande Bretagne et d'Irlande, Sa Majesté le Roi de Prusse et Sa Majesté l'Empereur de toutes les Russies déclarent la Sublime Porte admise à participer aux avantages

du droit public et du concert européens. Leurs Majestés s'engagent, chacune de son côté, à respecter l'indépendance et l'intégrité territoriale de l'Empire Ottoman, garantissent, en commun, la stricte observation de cet engagement, et considéreront, en conséquence, tout acte de nature à y porter atteinte comme une question d'intérêt général (England, 1856).

Although Article 7 of the 1856 Paris Treaty states that “the Sublime Porte [is recognized] as participating in the benefits of the European public system and law (concert),” it essentially only reaffirms existing diplomatic relations and long-standing norms. Although rhetorical, this collective recognition strengthened the Ottoman Empire's diplomatic status—facilitating its access to multilateral forums—without halting armed intervention or economic pressure on the territorial integrity of the Porte.

As a consequence, the Ottoman Empire utilized Article 7 as a formal basis to demand protection and protest European violations of its sovereignty. This practice of protest had actually existed before 1856, but it was only considered collectively legitimate after the 1856 Treaty of Paris—making international norms a strategic negotiating tool for the Hamidian regime in defending its sovereignty amid an unprecedented wave of intervention (Mustafa Serdar Palabıyık, 2014).

## **5. The Hamidian Elite's Realpolitik Approach to International Law**

During the Tanzimat period, the Ottomans lost a lot of their territory, and even gained only a little through the Crimean War and the conquest of some areas in Arabia. But control over Serbia, Montenegro, Romania, and Egypt was loosened, Crete and Lebanon got a new special status, and the Bulgarians were moving fast in the same direction. Perhaps there was little the Tanzimat statesmen could do to preserve the Ottoman Empire's territorial integrity as it once was. Many Christians transitioned from a sense of separate millet identity to nationalist consciousness without ever fully embracing Ottomanism.

In such an international context, the Hamidian regime would make a significant contribution to the appreciation of the utility of international law (Aral, 2016) as a critical defense for its survival under the immense pressure of European imperialism and the increasingly reckless nationalist movements (Fujinami, 2015).

There are at least three main reasons why international law became important for the Ottomans to understand and apply: the intensification of multilateral diplomatic networks between the Ottomans and European nations as a direct



consequence of Europe's growing interest in the survival of the Porte; the issue of extraterritoriality; and the 1856 Paris Treaty (Mustafa Serdar Palabıyık, 2014).

For a state whose military power had significantly declined, such as the Ottoman Empire, international law was used as a tool to resist colonial coercion (Dezalay & Gargth, 2010). However, international law, in any case, concerns relations between states, whose fundamental qualities are sovereignty (*hakimiyet*) and legal unity. As the basic unit and subject of international law, the state is a legal entity (*şahs-ı manevi*), which is, of course, a foreign concept to Islamic legal tradition. The state's power over its land and people is called sovereignty, which essentially means the power to decide domestic affairs independently (Fujinami, 2015).

Understanding international law is essential because it serves as the primary source of support for Ottoman diplomacy. International law, however, functions as a useful tool in international meetings and negotiations under the dominance of the European diplomatic system (Aral, 2016).

Şehbaz Efendi even argued that an understanding of international law was necessary to address the problems of the Ottoman Empire, one of which was by training diplomats who were experts in their field. He believed that this effort was necessary to protect Ottoman territories from external intervention, mitigate political conflicts, and maintain the Ottoman Empire's diplomatic standing in the eyes of European nations while fostering stable and orderly relations with them (Aral, 2016).

Of course, the idea of international law in Ottoman political thought did not first emerge after the 1856 Paris Treaty, as the positivist group believed. We cannot retrospectively assume that the Ottomans were outside the international community and international law before 1856. Throughout the records, there is no evidence that the participants were aware that Turkey had not yet become a subject of international law, or that they were proposing to grant that status to the Ottomans (Wood, 1943).

However, the acceleration of Ottoman interaction with European countries over the centuries had resulted in greater awareness and familiarity with European *jus gentium*, and at a later stage, the Ottomans even submitted to that law in the 17th century as a result of the declining power of Ottoman hegemony (Hurewitz, 1955). and in the 18th century, the Ottomans began to adopt international law, such as the concept of "the law of nations," after being prompted by the French invasion of Egypt in 1798. However, after the establishment of modern diplomatic departments in European countries, the Ottomans became actively involved in intellectual exchanges, importing

and translating several international legal treatises to address European issues. The study of international law began in the mid-19th century, but during this period, legal education was not yet systematized, occurring intermittently and remaining unstable between 1859 and 1877. It is likely that the Ottoman bureaucratic elite preferred to recruit European legal experts due to the scarcity of Ottoman scholars specializing in law at the time.

Ottoman literature on international law was still quite primitive during this period. The first study on European international law was a translation of the work of Swiss author Emerich de Vattel (1714-1767), entitled *Droit des gens* (The Law of Nations), as well as Vattel's treatise on the law of war and peace, which was translated in 1839 by a servant of the Grand Vizier, Hüsrev Mehmed Paşa.

Following Vattel's treatise, volumes I and II of Ottokar Maria Freiherr von Schlechta-Wssehrd's (1825-1894) treatise, titled *The Law of Nations* (Hukük-u Milet), were published in Vienna in 1848 and in Istanbul in 1878. The first volume of the treatise covers various topics including the definition and classification of states, the law of territorial acquisition, maritime law, the law of representation, and diplomatic agreements. The second volume focuses on the law of war and peace.

Another compilation of European international law treatises was published in 1874 by Mahmud Tevfik, titled *The Practices of States* (Mu'âmelât-ı Düvel) (Mustafa Serdar Palabıyık, 2014). Other treatises were written by Paul Pradier Fodéré (1827-1904) and Johann Caspar Bluntschli (1808-1881).

However, it was only after the 1856 Paris Treaty that international law became a discipline taught systematically in schools and universities during the Hamidian era (1880-1908), such as at the School of Civil Administration (Mekteb-i Mulkiye), the Law School (Mekteb-i Hukuk), and the Faculty of Law at Darülfünun, the first Ottoman university modeled after European universities, which prioritized international law.

Additionally, they also studied law in Europe as a means to support the training of Ottoman bureaucrats, diplomats, and scholars in the Ottoman perspective on the latest legal doctrines (Fujinami, 2015). European international law was then adopted and studied systematically, but used for the interests of the Porte. The teaching of international law was seen as important for preventing extraterritoriality while maintaining the integrity of the Porte's territorial integrity (Özsu, 2020).

During the Hamidian era, publications by international law scholars in this field experienced rapid development. This phenomenon emerged because, during this

period, international law began to be taught in a more academic manner. Additionally, the new generation of international law scholars not only had enthusiasm for teaching but were also eager to write in this field. For the first time, authentic international law textbooks appeared as a replacement for translations of European legal treatises, enabling scholars to diversify their reading lists. Thus, the Hamidian era was a very important period for the formation of international law as an academic discipline.

The first international law treatise published in this period was a translation of a relatively modern European treatise on international law by Swiss jurist Johann Caspar Bluntschli entitled *The Modern of International Law of the Civilized States* (*Das moderne Völkerrecht der civilisierten Staaten*), translated by Yusuf Ziya as *The Treatise on International Law* (*Hukük-u Beyn' ed-düvel Kânûnu*). With this translation, the word *Beyn' ed-düvel* is used for the first time to indicate “international”, previously international law was translated as *Hukük-u milel* (law of nations), or *Hukük-u düvel* (law of nations). Yusuf Ziya's use of the word *Beyn' ed-düvel* is thus much more clear and precise.

After this text treatise, the first authentic international law textbook in Ottoman Turkish appeared in 1882. This treatise was written by Kemalpaşazade Said and Cebrail Gregor under the word title *Hukük-u düvel*, which was a compilation of their lectures. This important contribution was followed by another compilation of lectures by Hasan Fehmi who published his lecture notes as an introductory textbook on international law entitled *Summary of International Law* (*Telhîs-i Hukük-u düvel*) published in 1883.

Another prolific international law writer, İbrahim Hakki, wrote two treatises on international law entitled *Introduction to International Law* (*Medhâl-i Hukük-u Beyn' ed-düvel*) and *History of International Law* (*Tarih-i Hukük-u Beyn' ed-düvel*), which were published simultaneously in 1886. In addition, he also compiled and published his lecture notes as a textbook with the help of one of his students, İsmail İrfan, under the title *Hukük-u Düvel* in 1911. This textbook became an important resource for students at *Mekteb-i Hukük*.

Hasan Fehmi and Ali Şehbaz also published his lecture notes through the *Mekteb-i Mülkiye* publishing house, in two volumes published in 1889 and 1890. In addition another compilation of his lecture notes was published outside Istanbul; Canadia and Crete in 1893. Ali Şehbaz's lecture notes were compiled in one volume and republished after his death by Mehmed Âdil, one of his students, so that his writings

are now available to the casual reader. The first edition entitled *Hukük-u Düvel* was published in 1908 and the second edition entitled *Mufasssal Hukük-u Düvel*, and other works of the late Ottoman period.

It was not until 1883 that the Ottoman Ministry of Foreign Affairs began to establish the Office of the Legal Adviser and the position of legal adviser. This specialized department was intended to deal more systematically with questions relating to international law, but it should also be seen as a Hamidian institution and part of a project to extend Ottoman control and create stronger consolidation across its domains of power, thereby, hopefully, reducing the influence of European powers and to assert equality with European powers.

Practically by the 1870s Ottoman officials regularly relied on international legal arguments in their foreign affairs, both between themselves and Europe, as well as with Persia, and the wider world.

Indeed, in the beginning, the Ottomans often relied on European lawyers for questions of foreign policy. But it was not until the 1890s, in the Hamidian era, that the Foreign Ministry no longer needed European jurists as legal advisors. Most of these functions were taken over by the Ottomans. The posts were generally held by Armenians and Ottoman Muslims (Genell, 2020).

Legal advisors saw international law as an alternative to European Great Power politics, relying on treaty law to shore up Ottoman territorial claims and assert Ottoman equality with European states. They constantly provided legal opinions to prevent European colonization of vulnerable Ottoman territories. Scholars of international law in the late Ottoman period strived to prevent the sultanate's collapse and hoped to revive its supremacy in the international order (Genell, 2020).

As such, the Ottoman Foreign Ministry's Office of the Legal Adviser prolifically produced thousands of legal opinions in response to issues ranging from citizenship and the laws of war to their territorial claims over Egypt, Sudan and the lost provinces of the Balkans following the 1878 Congress of Berlin, which established the framework for granting international recognition to Serbia, Montenegro and Romania. Great power recognition of the Ottoman provinces in the Balkans was contingent on the fulfillment of religious freedom, as well as civil and political rights to the entire population. The Congress of Berlin also granted Austria-Hungary the right to occupy and rule Bosnia-Herzegovina. The Ottomans became the nominal rulers there (Genell, 2016; Güven DİNÇ, 2022).

The issue of sovereignty that prevailed throughout the 19th and early 20th centuries was further exacerbated by the emergence of great power designs at the 1878 Congress of Berlin, notably the Austro-Hungarian occupation of Bosnia-Herzegovina, and the British occupation of Egypt in 1882. Coinciding with these disasters, the legal interpretation of semi-sovereignty in Ottoman politics began to shift towards a sign of state incapacity. Autonomous rule imposed by a great power was an affront to sovereignty and a stepping stone to independence, signaling Porte's perceived inequality in international law (Genell, 2016).

The anomalies, controversies and ambiguities of the autonomous status imposed by Western powers on the Ottomans in its provinces. Henry Bonfils, for example, in *Modifications and Restrictions of Fundamental Rights*, criticized Bismarck and Disraeli's diplomatic dispute that secured Austria-Hungary's right to occupy Bosnia-Herzegovina and station its troops in Ottoman sub-provinces (*sancak*) through the Congress of Berlin. Instead, Bonfils supported the Ottoman diplomats in Congress, who rightly protested against the occupation and argued that it was tantamount to annexation sanctioned by the great powers. He noted that the sultan remained sovereign in the provinces, but only nominally, having rights without substance (*nudum jus*). This was nothing more than a disguised annexation and a clear violation of the sultan's rights. The situation is bizarre, disorganized and against all principles (Genell, 2016). This situation was also strongly condemned in *Meşveret Magazine* as an organ of the CUP that was fed up with the intervention of the great powers especially against British and Austrian imperialist designs in the Balkans (Rami Ömer, 1911).

John Westlake also described the Austro-Hungarian military service in Serbia as 'an act which has undoubtedly violated their consciences and their immediate obligations to the legitimate sovereignty of the sultan, thereby depriving the sultan of the right to his provinces'. Even this occupation has been criticized by international lawyers as a product of opaque diplomacy, which impedes the progress of international law (Genell, 2016).

Another issue besides that of the Austro-Hungarian occupation that has generated no simple controversy in international law is Egypt. According to diplomatic records, Egypt had gained autonomy after European countries intervened through the 1840 London Convention (Holland, 1885), but it was not until the British occupation in 1882 that there was a gap between Ottoman sovereignty and British administrative control (Genell, 2016).

Interestingly, Fedor Martens' argument was nothing more than to serve British colonialism over Egypt by arguing that Egypt should be completely freed from Ottoman control and made a neutral place like Luxembourg, Switzerland and Belgium, with plans to internationalize not only the Canal Zone, but also the whole of Egypt as a solution to the intensifying rivalry between Britain and France in Egypt coupled with the anarchic situation in the province caused by factionalism, which would cause danger and chaos in Europe. He reasoned that such measures were necessary to protect this important waterway and for the stability of Europe. The London Convention of 1840 had been a complete and utter failure in every respect. The annexation had to be subordinated to British strategic interests concerning Egypt's geostrategic location, the Suez Canal and European financial and political interests (Genell, 2016).

John Westlake writes that during the British occupation of Egypt as well as the period between 1840 and 1882 under khedive control, it produced a very odd political entity. The ambiguity of 'dual sovereignty' (under British rule and nominally, the sultan) continued throughout the occupation, until the end of World War I when the Ottomans formally relinquished their sovereign rights over the province (Genell, 2016).

The problems that developed in the Ottoman special provinces (eyalat-ı mümtaze) - Romania, Serbia, Bulgaria, Egypt, and so on - were important to the Porte. Hasan Fehmi very carefully chose the term government (hukümet) instead of state (devlet), effectively negating the statehood of these provinces and to criticize European double standards. Hasan Fehmi continued to defend Ottoman sovereignty with the logic of modern international law, and demanded that Britain respect the sultan's sovereign rights in Egypt and Sudan. He used international law from the perspective of the victim. Lofty words such as humanity and peace have been used as effective tools for great powers to justify their aggression against Ottoman domains (Fujinami, 2015).

However, despite this, it should be recognized that the significance of using international legal instruments as a defense strategy can be seen in how Sultan Abdülhamid II managed to withstand territorial losses during 1882-1908 (Rogan, 2018b). Thus, the Ottomans were no longer a representation of a pure Islamic caliphate, but had transformed into a caliphate institution that had been subjected to international law and the rules of European countries which were believed to be

critical defense instruments for state sovereignty in the era of aggression by major European powers.

#### **D. CONCLUSION**

This research successfully reconstructs the institutionalization process of the 1856 Treaty of Paris in Hamidian-era Ottoman foreign policy, outlining how the *Mekteb i Hukūk* curriculum, the Office of the Legal Adviser, and diplomatic litigation were strategically used by Hamidian elites to defend sovereignty and resist foreign intervention. This analysis answers the research problems: (1) map the adoption of international law before & after the 1856 Treaty of Paris, (2) uncover Hamidian legal negotiation practices, and (3) assess their historical relevance for the policy framework of the contemporary Islamic world.

In terms of contemporary policy, the Ottoman historical experience confirms the need for postcolonial states to devise hybrid strategies that elaborate international legal instruments with strategic defense capabilities. By combining legal legitimacy and military readiness, they were able to strengthen diplomatic leverage and maintain sovereignty amidst the dynamics of global hegemony.

For the development of further studies, it is important to conduct: First, an in-depth study of the dialectical interaction between the concept of Islamic international *siyar* and European *jus gentium*; Second, a comparison of Ottoman legal-diplomatic strategies with other Islamic countries in the 19th century; Third, an analysis of the long-term impact of the *realpolitik* adaptation of international law on the formation of nation-states in the former Ottoman territories. Thus, further studies are expected to enrich the understanding of the agency of international law by the Islamic world elite and its implications for the historiography of international relations.

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