

UNIVERSITY OF CALIFORNIA

Los Angeles

Penal Institutions,  
Nation-state Construction, and Modernity  
in the Late Ottoman Empire,  
1908-1919

A dissertation submitted in partial satisfaction of the  
Requirements for the degree Doctor of Philosophy  
in History

by

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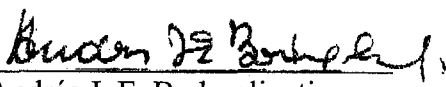
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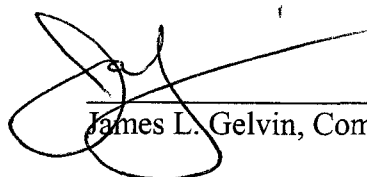
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## DEDICATION PAGE

This dissertation is dedicated to the memory of my mother, Carol Ann Connolly. She was never physically a part of my higher education, but I know she was there in spirit. She is dearly loved and missed. May God rest her soul.

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## LIST OF ABBREVIATIONS

BNA: The British National Archives

BOA: Başbakanlık Osmanlı Arşivi (The Prime Minister's Ottoman Archives)

CUP: Committee of Union and Progress

DHEUMTHR: *Dahiliye Nezareti, Emniyet-i Umumiye Müdiriyeti, Tahrirat Kalemi Belgeleri* (Ministry of the Interior, Directorate of Public Security, Secretariat)

DHMBHPS: *Dahiliye Nezareti, Mebani-i Emiriye ve Hapishaneler Müdüriyeti Belgeleri* (Ministry of the Interior, Documents of the Directorate of Prisons and Buildings Administration)

DHMBHPSM: *Dahiliye Nezareti, Mebani-i Emiriye ve Hapishaneler Müdüriyeti Belgeleri Müteferrik* (Ministry of the Interior, Documents of the Directorate of Prisons and Buildings Administration)

DHTMIKS: *Dahiliye Nezareti, Tesri-i Muamelat ve Islahat Komisyonu* (Ministry of the Interior, The Commission for Expediting Initiatives and Reforms), 1896-1908.

FO: British Foreign Office

IJMES: *The International Journal of Middle East Studies*

IOPC: Imperial Ottoman Penal Code

MMZC: *Meclis-i Ayan Zabıt Ceridesi* (The Debate Registers of the Ottoman Chamber of Deputies)

OPDA: The Ottoman Public Debt Administration

ŞD: *Şura-yı Devlet* (The Ottoman Council of State)

TL: Turkish Lira

YEE: *Yıldız Esas Evrakı* (Yıldız Principle Papers)

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of the Prime Minister's Ottoman Archives in Istanbul, Turkey deserves very special thanks for their wonderful help, warmth, kindness, patience, and hospitality as they guided me through the intricacies and complexities of the Ottoman archives.

I continue to hold a debt of gratitude to those scholars and mentors who guided my own academic development and nurtured within me a curiosity and love for all things Middle East. In particular, I wish to express my gratitude to Arnold Green and David Montgomery at Brigham Young University. I can only hope that I am able to offer my own students the kind of personal and intellectual training and inspiration that they offered to me. I also had the benefit and privilege to work with a number of truly exceptional people throughout my educational experience. I wish to thank Najwa Al-Qattan, András Bodrogligeti, Michael Cooperson, Mehmet Surreya Er, Lynn Hunt, Güliz Kuruoğlu, Ronald Mellor, Michael Morony, Yona Sabar, and Dora Weiner. I also wish to thank others who took the time to assist and help me in my work, namely Roger Deal, Fatmagül Demirel, Ferdan Ergut, Hakan Erdem, Yasemin Gönen, Noemi Levi, Hüseyin Ozkaya, Donald Quataert, Stanford Shaw, and Gültekin Yıldız.

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# ABSTRACT OF THE DISSERTATION

Penal Institutions,  
Nation-state Construction, and Modernity  
in the Late Ottoman Empire,  
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by

Kent Fielding Schull  
Doctor of Philosophy in History  
University of California, Los Angeles, 2007  
Professor James L. Gelvin, Chair

The topic of this dissertation concerns the development of modern penal institutions, particularly prisons, and their role in state formation during the late Ottoman Empire (1908-1919). I am attempting to test and apply what social scientists call the ‘modernist’ approach to nation-state construction to a non-Western region, namely the Ottoman Empire. The central argument of my dissertation is that the Committee of Union and Progress utilized prisons as laboratories of modernity for nation-state construction in order to bring progress, reason, and civilization to the Ottoman Empire and “raise its population to the level of a scientific society” during the Second

Constitutional Period. The role of penal institutions in the late Ottoman Empire went far beyond attempts at social control and discipline. It was within the walls of Ottoman prisons that many of the important questions of modernity were worked out, such as administrative reform and centralization, the role of punishment in the rehabilitation of prisoners, economic development and industrialization, issues of gender and childhood, the implementation of modern concepts of time and space, nationalist identity, social control and discipline, secularization through circumscribing the authority of Islamic legal institutions, and the role of the state in caring for its population in terms of public health and hygiene. The prison became a site of development, implementation, and contestation of these issues not only within penal institutions, but also on an imperial level as well. Therefore, prisons and other penal institutions act as important windows into Ottoman society and culture during the first decades of the twentieth century and help to substantiate further the existence of a specific and unique Ottoman modernity distinct from its Western contemporaries.

## Introduction

The topic of this study involves the interconnected relationship between the development of modern penal institutions, nation-state construction, and modernity in the late Ottoman Empire, particularly during the Second Constitutional Period (1908-1918). This study constitutes a test case of the approaches to nation building, state formation, modernity, and the role penal institutions played therein by Western scholars, particularly Charles Tilly, Eugen Weber, Fred Halliday, Timothy Mitchell, and especially Michel Foucault, as applied to a non-Western region.<sup>1</sup> On a theoretical and methodological level the concept of modernity, these scholars' combined theoretical approach to nation-state construction, and the general role penal institutions played in this process shall be discussed below.

The concept of 'modernity' can be defined as both a mood and a socio-cultural construct. It is a mood insomuch as it is a powerful assumption about how the 'modern' world is supposed to be as compared to a 'traditional' world characterized as backward,

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<sup>1</sup> The works utilized in this study from Charles Tilly, Eugen Weber, Fred Halliday, Michele Foucault and Timothy Mitchell are Charles Tilly, *The Contentious French* (Cambridge, MA: Belknap Press, 1986), "On the History of European State-Making," in C. Tilly (ed.) *The Formation of National States in Western Europe* (Princeton, NJ: Princeton University Press, 1975), and *Popular Contention in Britain, 1758-1834* (Cambridge, MA: Harvard University Press, 1995); Eugen Weber, *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914* (Stanford, CA: Stanford University Press, 1976); Fred Halliday, "Nationalism Debate and the Middle/East," in *Middle Eastern Lectures* 3 (1999); Michele Foucault, "Governmentality" in Graham Burchell, et al. (eds.), *The Foucault Effect: Studies in Governmentality: With two lectures by and an interview with Michel Foucault* (Chicago: Chicago University Press, 1991), chapter four and *Discipline and Punish: the Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon Books, 1995); and Timothy Mitchell, *Colonizing Egypt* (New York: Cambridge University Press, 1988) and "The Limits of the State: Beyond Statist Approaches and their Critics" in *American Political Science Review*, 85/1 (March, 1991), pp. 77-96.

irrational, superstitious, undemocratic, non-secular, or anti-individualistic. Modernity is a socio-cultural construct insomuch as its emphasis lies in its institutional, social, and economic nature.<sup>2</sup> In this study, modernity, for the reformers and nation-state builders of the late Ottoman Empire, particularly for members of the Committee of Union and Progress (CUP), was both a mood and a socio-cultural construct.

Modernity, as a concept, sets the modern world apart from the pre- and early modern periods and is based upon twin pillars. These twin pillars are the world economic system with a worldwide division of labor (i.e. core states and peripheral states) and the world system of nation-states.<sup>3</sup> The origins of these two world systems can be traced to sixteenth-century Europe from which they spread worldwide through the processes of defensive modernization and imperialism during the late eighteenth and nineteenth centuries. Incorporation into these two systems completely changed the social, economic, intellectual, cultural, and political circumstances and relationships of every region throughout the world. In this sense, therefore, 'modernity' can be defined as the sum total of these changes which transformed the dominant socio-economic, political, and cultural structures which typified the pre- and early modern periods. It is within this

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<sup>2</sup> N.J. Rengger, *Political Theory, Modernity, and Postmodernity: Beyond Enlightenment and Critique* (Oxford: Blackwell, 1995), pp. 39-42.

<sup>3</sup> For a discussion of the definition and development of 'modernity' and the twin pillars of the modern world see James L. Gelvin, *The Modern Middle East, A History* (New York: Oxford University Press, 2005), pp. 1-73. 'Core' states are those in which industrialization has taken hold. They are the major economic powers of today's world, think G-8 states. Peripheral states are those which supply cheap raw materials and labor to core states and serve as markets for core state's manufactured products. All states, both core and peripheral, are politically independent, but they are obviously not equal in terms of power.

broad context of modernity that I set my study of penal institutions, particularly prisons, and their role in the development and construction of an Ottoman nation-state.

There are two major analytical approaches to the study of nationalism and nation-state construction as outlined by Fred Halliday: the primordialist/perennialist and the modernist approaches. The primordialist approach argues that nation states and nationalisms are simply revivifications of some shared primordial ethnic past that have resurfaced in the modern period. According to this approach there is nothing strictly modern or unique about the nation states of today. This approach is rejected and refuted by the modernists. The modernist approach argues that nationalism and the nation state are uniquely modern, universal, socially constructed phenomena that are inseparable intertwined. Nationalism is the legitimizing ideology for the modern nation state and both arose simultaneously.<sup>4</sup> These phenomena resulted from processes, which crystallized in Western Europe during the eighteenth and nineteenth centuries, consisted of the penetration of capitalist market relations/industrialization and the spread of new instrumentalities of governance. These processes ‘totalized’ and ‘individuated’ populations constructing for them and by them a world essentially divided into nation states and nationalities.<sup>5</sup>

The processes, through which the world system of nation states and their legitimizing ideology of nationalism arose, according to Michel Foucault and Timothy

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<sup>4</sup> See Fred Halliday, “Nationalism Debate and the Middle/East,” in *Middle Eastern Lectures* 3 (1999).

<sup>5</sup> Michel Foucault, “Governmentality” in Graham Burchell, et al. (eds.), *The Foucault Effect: Studies in Governmentality: With two lectures by and an interview with Michel Foucault* (Chicago: Chicago University Press, 1991), chapter four.

Mitchell, began in the seventeenth century when the art of governance shifted from the perpetuation of rule (i.e. sovereignty over a territory) to the totalization and individuation of a state's population. Through a series of processes placed under the rubric of discipline, consisting of the meticulous organization of spatial relationships, movement, sequence, and position found in both private and public institutions, such as administrative bureaucracies, schools, factories, commercial businesses, hospitals, the military, and penal institutions (police and prisons), governments began to rule and control their populations directly more through discipline and surveillance as opposed to the use of external coercive force. In other words, the population began to internalize this new system of order and surveillance and discipline themselves. According to Foucault and Mitchell, this is a uniquely modern phenomenon. The implementation of these new methods of governance facilitates the population's assumption of a common or national identity for which individuals exercise self-discipline and work for the common good. This new self-perceived national identity is intimately linked with a specific territory, a shared history, cultural identity, and the development of national self-government. National self-government represents a fundamental shift in the nature of sovereignty. No longer was sovereignty based on a divine mandate, but now it came from the nation.<sup>6</sup>

According to Charles Tilly and Eugen Weber, this process of totalization and individuation via governmentality was also furthered by the spread of capitalist market relations. As social constructivists, both scholars are concerned with the formation of

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<sup>6</sup> See Foucault, "Governmentality" and Timothy Mitchell, "The Limits of the State: Beyond Statist Approaches and their Critics" in *American Political Science Review*, 85/1 (March, 1991), pp. 77-96.

identity on a national level, particularly in France. Whereas Tilly's focus is the development of mass collective contentious activity in France and not nationalism per se, Weber's focus is clearly on the development of a French national consciousness and the construction of a French nation-state. Both utilize the same forces and basic arguments put forward by the modernist approach. Tilly demonstrates that contentious collective activity in France developed from a local, disjunctive, unorganized, and poorly sustained phenomenon during the early modern period to a highly sophisticated, sustained, and well organized collective activity by the twentieth century. This 'modern' collective contentious activity now took place on an interregional and even national level and was directed at the central state rather than local officials or notables.<sup>7</sup> Weber demonstrated the modern process of French nation-state construction through the state's attempts to incorporate the peasantry into a national identity through the extension of modern methods of governance. From 1870 to 1914, France incorporated the rural periphery and extended the central government's power over it through military conscription, improvement of transportation and communication infrastructure, and education. Weber characterizes this process as "akin to colonization" and as "a form of conquest." Not only was France and the rest of Western Europe colonizing various parts

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<sup>7</sup> See Tilly's *The Contentious French* (Cambridge, MA: Belknap Press, 1986) and "On the History of European State-Making," in C. Tilly (ed.) *The Formation of National States in Western Europe* (Princeton, NJ: Princeton University Press, 1975).



of the world, they were also attempting to incorporate sections of their own populations into the world system of nation-states and world economic system.<sup>8</sup>

Mitchell's argument on the relationship between state and society helps to mitigate Weber's and Tilly's tendency to reify the state by giving it agency and making the population the passive recipients of nationalist ideology and identity. Mitchell mitigates the modernist approach's tendency to make the state an actor with agency by demonstrating that the effects of the culmination of the processes of discipline, market penetration, and governmentality cause the 'state' to appear as a tangible entity, which sits external to and dominant over another larger reified entity—'society.' To Mitchell, both state and society appear to have will and agency of their own as a result of the structural effects outline above.<sup>9</sup>

What is most important to understand about nationalism and nation-states is that they are modern constructed entities. Populations have been totalized and individuated to the extent that individuals see themselves as belonging to a national identity located within a specific territoriality. Forces, such as discipline, the penetration of market relations, and the implementation of modern methods of governance, make society and state appear as concrete entities with a will and agency of their own when in reality they are the structural effects of spatial relationships and governing practices. This fact must be taken into account when studying nation-state construction and the development of

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<sup>8</sup> Weber's *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914* (Stanford, CA: Stanford University Press, 1976).

<sup>9</sup> Mitchell, "The Limits of the State."

nationalism. Identities are constructed, not primordial, and individuals, not states or societies have agency and the ability to act.

Penal institutions are among the many institutions that utilize these new methods of governance to discipline, constrain, and shape the population. Penal institutions, such as prisons and police, utilize a variety of new technologies and disciplining mechanisms, such as surveillance, spatial relationships, and monotonous regimens to persuade through performative example and/or to impose discipline upon the prisoner and the wider population. Penal institutions also play a vital role in modern state construction. As Michel Foucault demonstrates in *Discipline and Punish: the Birth of the Prison*, penal institutions, such as the prison and police provide the state with greater levels of access to and control over the population through the use of new technologies of surveillance and discipline, which facilitate the maintenance of order.<sup>10</sup> The specifics of his argument, methodology, and conclusions are discussed in detail below, but suffice it to say at this point that his work has made an enormous contribution to penal studies and their relationship to the creation and development of the modern state.

Modern, centralized penal institutions not only facilitate the development of states, but they also act as windows into the process of modernity and its affects on a specific cultural and historical context. This, in turn, allows for comparison between the development and use of modern penal institutions among other modernizing states, thus

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<sup>10</sup> Michel Foucault, *Discipline and Punish: the Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon Books, 1995).

substantiating the claim of alternative modernities.<sup>11</sup> In other words, though the general circumstances in which modernity emerges may be similar around the world, particular developments, challenges, experiences, processes, and outcomes are unique to each region as it was incorporated in the world economic system and world system of nation-states. The Ottoman experience of modern state construction and its use of penal institutions, therefore, are both unique in and of themselves as historical processes and parallel other states during the nineteenth and early twentieth centuries, thereby creating an alternative modernity. The key to studying Ottoman penal institutions, their development, and the role they played in modern state construction is finding the right theoretical and methodological approaches and then tailoring them to a specific Ottoman historical context.

## **Approaches to Prisons**

Whenever the topic of Ottoman or better yet ‘Turkish’ prisons is brought up, immediately visceral reactions and unpleasant images come to mind that usually center on three things, Deviant Brutal Sexual Abuse, Drugs, and Torture. This ‘American Orientalist’ image of Turkish prisons has been emblazoned upon our minds primarily by

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<sup>11</sup> For a detailed discussion of ‘alternative’ modernities see Dean C. Tipps, “Modernization Theory and the Comparative Study of Societies: A Critical Perspective” *Comparative Studies of Society and History*, XV (March, 1973), pp. 199-226 and Deniz Kandiyoti, “Gendering the Modern: On Missing Dimensions in the Study of Turkish Modernity” in Sibel Bozdoğan, et al (eds.) *Rethinking Modernity and National Identity in Turkey* (Seattle, WA: University of Washington Press, 1997), pp. 113-32.

Oliver Stone's "Midnight Express."<sup>12</sup> But even Lawrence of Arabia and comedies such as Airplane and the Simpsons have reinforced and/or parodied these stereotypes. Unfortunately, these stereotypes have overshadowed other aspects of Ottoman prisons and penal institutions from being studied and investigated, namely their role in modern state formation during the era of reform in the nineteenth and early twentieth centuries. There is, therefore, a very limited scholarly literature on this topic for the Ottoman Empire, let alone for the Middle East. With the exception of a handful of descriptive articles and two M.A. theses, all in Turkish, plus an excellent study on the development of Ottoman policing and a survey article on general prison reform in the broader Middle East, large lacunae exist in the scholarly work done on Ottoman prisons and penal institutions.<sup>13</sup> For these reasons I turned to studies of prisons in other areas of the world for my methodological and theoretical approach.

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<sup>12</sup> *Midnight Express* (1978), directed and produced by Alan Parker. The screen play was written by Oliver Stone based upon Billy Hayes book *Midnight Express* about his experiences as a convicted drug smuggler in a Turkish prison. Recently both Billy Hayes and Oliver Stone have admitted that the movie grossly misrepresented and exaggerated Hayes actual experience in a Turkish prison. See the *New York Times* Monday, June 18<sup>th</sup>, 2007 under The Arts section, B2.

<sup>13</sup> For studies on Ottoman and Turkish prisons written in Turkish see Gültekin Yıldız, "Osmanlı Devleti'nde Hapishane Islahatı (1838-1908)," MA thesis (Marmara University: 2002); Mümin Yıldıztaş, "Mütareke Döneminde Suç Unsurları ve İstanbul Hapishaneleri," MA Thesis (İstanbul: İstanbul Üniversitesi, 1997); Emine Gürsoy, ed., *Hapishane Kitabı* (Istanbul: Kitabevi, 2005); within that edited volume the following article is especially pertinent: Gönen, Yasemin, "Osmanlı İmparatorluğunda Hapishaneleri İyileştirme Girişimi, 1917 yılı," pp. 173-183; Demirel, Fatmagül, "1890 Petersburg Hapishaneler Kongresi" *Toplumsal Tarih* vol. 89 (May, 2001) pp. 11-14; and Ferdan Ergut, *Modern Devlet ve Polis: Osmanlı'dan Cumhuriyet'e Toplumsal Denetimin Diyalektiği* (İstanbul: İltişim, 2004). For English language works on Middle Eastern prisons and penal institutions see Hasan Şen, "Transformation of Punishment Politics and Birth of the Prison in the Ottoman Empire (1845-1910)," M.A. Thesis, (Boğazici University: 2005); Rudolph Peters, "Controlled Suffering: Mortality and Living Conditions in 19<sup>th</sup> Century Egyptian Prisons," *International Journal of Middle East Studies*, 36 (2001), pp. 387-407, "Prisons and Marginalisation in Nineteenth-century Egypt" in Eugene Rogan (ed.), *Outside in: On the Margins of the Modern Middle East* (London and New York: I.B. Tauris, 2002), pp. 31-52, and "Egypt and the Age of the Triumphant Prison: Legal Punishment in Nineteenth Century Egypt," *Annales*

There is an extensive and highly developed literature on penalty and penal institutions in Western Europe and North America for the nineteenth and early twentieth centuries. There is also a burgeoning literature on penal practices and institutions in developing and colonized countries, such as Latin America, Southeast Asia, and Russia during this same time period.<sup>14</sup> This literature represents a wealth of theoretical and methodological approaches to the study of penalty.

European and North American penal historiography can be broken up into four major groups in terms of methodology and approach to penal institutions and punishment. These four divisions are the Durkheimians, Marxists, neo-Marxists, and the Foucauldians. Besides eighteenth and nineteenth century prison reform literature and treatises by John Howard, Alexis de Tocqueville, G. de Beaumont, Baron de

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*Islamologiques*, vol. 32 (2002), pp. 253-285; Gorman, Anthony, "Regulation, Reform and Resistance in the Middle Eastern Prison" in Frank Dikötter and Ian Brown (eds.), *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America* (Ithaca, NY: Cornell University Press, 2007); Khaled Fahmy, "Medical Conditions in Egyptian Prisons in the Nineteenth Century" in R. Ostle (ed.), *Marginal Voices in Literature and Society* (Strasbourg: European Science Foundation/Maison Méditerranéenne des Sciences de l'Homme d'Aix-en-Provence, 2000), pp. 135-155 and "The Police and the People in Nineteenth-Century Egypt," *Die Welt des Islams*, 39 (1999), pp. 340-377; Ferdan Ergut, "Policing the Poor in the Late Ottoman Empire" in *Middle Eastern Studies*, 38 (2002), 149-64, "The State and Civil Rights in the Late Ottoman Empire" in *Journal of Mediterranean Studies*, 13 (2003), p.53-74, and "State and Social Control: Police in the late Ottoman Empire and the early Republican Turkey, 1839-1939," Thesis-Ph.D (New School of Social Research, 1999).

<sup>14</sup> There is a burgeoning literature on penal institutions and nation-state construction in the developing world. See Frank Dikötter and Ian Brown (eds.), *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America* (Ithaca, NY: Cornell University Press, 2007); Frank Dikötter, *Crime, Punishment and Prisons in Modern China: 1895-1949* (New York: Columbia University Press, 2002); Daniel V. Botsman, *Punishment and Power in the Making of Modern Japan* (Princeton, NJ: Princeton University Press, 2005); Florence Bernault and Jannet L. Roitman, ed., *A History of Prisons and Confinement in Africa* (Portsmouth, NH: Heinemann, 2003); Ricardo Donato Salvatore and Carlos Aguirre, eds., *The Birth of the Penitentiary in Latin America: Essays on Criminology, Prison Reform, and Social Control, 1830-1940* (Austin, TX: University of Texas Press: Institute of Latin American Studies, 1996); Bruce Adams, *The Politics of Punishment: Prison Reform in Russia, 1863-1917* (DeKalb, ILL: Northern Illinois University Press, 1996); and Peter Zinoman, *The Colonial Bastille: A History of Imprisonment in Vietnam, 1862-1940* (Los Angeles: California University Press, 2001).

Montesquieu, and Jeremy Bentham,<sup>15</sup> one of the first scholars to investigate crime, punishment, and penalty was the great sociologist Émile Durkheim.

Durkheim was a prolific scholar, but three of his works in particular deal with crime, punishment, and penalty: *Moral Education*, *The Division of Labor in Society*, and “Two Laws of Penal Evolution.”<sup>16</sup> His theoretical and methodological approach to penalty is, of course, closely associated with his sociological theories of society, especially his concept of the ‘conscience collective.’ The ‘conscience collective’ is the sum total of the morals, values, and shared identity found within a society that governs their laws, actions, and attitudes and helps to create a bond of solidarity among a population.<sup>17</sup> Durkheim viewed punishment as “an index of society’s invisible moral bonds” and

penal sanctioning represented a tangible example of this ‘collective conscience’ at work, in a process that both expressed and regenerated society’s values...Thus in the processes and rituals of penalty, Durkheim claimed to have found a key to the analysis of society itself.<sup>18</sup>

Punishment, for Durkheim, is also a demonstration of society’s emotional reaction and revenge for a violation of its norms and mores. It is this irrational emotional response to

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<sup>15</sup> John Howard, *The State of the Prisons in England and Wales* (Warrington, U.K.: 1789); G. de Beaumont and Alexis de Tocqueville, *On the Penitentiary System in the United States* (Philadelphia, PA: 1833); Baron de Montesquieu, *The Spirit of the Laws* (Edinburgh, 1762; orig. pub. 1748); and Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (London: 1789).

<sup>16</sup> Émile Durkheim, *Moral Education* (New York: 1973), *The Division of Labor in Society*, trans. G. Simpson (New York: 1933), and “Two Laws of Penal Evolution,” orig. appeared in *Année sociologique*, 4 (1902), pp. 65-95.

<sup>17</sup> David Garland, *Punishment and Modern Society: A Study in Social Theory* (Oxford, 1991), pp. 33-6.

<sup>18</sup> *Ibid.*, pp. 2 and 23.

crime that helps to reestablish the balance and solidarity that must exist in a society for it to function properly.<sup>19</sup>

Durkheim's approach and methodology is very useful to the study of penality, because it connects penal practices, laws, and institutions and acts of punishment with society's morals and values and gives them a moral basis. He demonstrates the importance of analyzing the relationship of penal institutions to public sentiment and how moral solidarity creates punishment practices and how punishment practices reaffirm societal solidarity.<sup>20</sup> Notwithstanding these benefits, Durkheim's methodology suffers from some very significant deficiencies. Durkheim treats the 'conscience collective' as if it is an uncontested fact of social life. He never accounts for the ideological struggles that are associated within a society's morality. He does not acknowledge that any society's moral order or legal system is a contested and constantly negotiated process. In fact, legal regulations or systems represent a compromise of various and diffuse 'conscience collectives' within a given society and do not equate in a one to one ratio with a society's collective morality.<sup>21</sup>

The Marxist approach to penality and punishment is not centered on the morality of a society, except when it comes to the ruling elite's relationship to the means of production and its desire to preserve and strengthen its hold on power. Penal practices and institutions, therefore, are economically determined since the key dynamic in history

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<sup>19</sup> Ibid., pp. 34-40.

<sup>20</sup> Ibid., pp. 27-8.

<sup>21</sup> Ibid., pp. 49-57.

and society, according to Marxists, is class struggle, which in turn brings about social change and gives shape to concrete institutions.<sup>22</sup> These institutions, such as schools, the military, the justice system, and prisons, are created by the ruling class in order to quell political opposition, promote their social policies and economic interests, preserve the status quo, and legitimate their domination over subordinate classes. The classic example of the utilization of a Marxist approach in order to study penal institutions is George Rusche and Otto Kirchheimer's *Punishment and Social Structures*. This work argues that penal institutions and punitive systems can be explained and predicted according to the mode of production dominant in a particular society. In other words, a society's particular mode of production, be it feudal or capitalist, determines the amount of corporeal punishment meted out upon the body of the offender.<sup>23</sup>

The usefulness of the Marxist approach is contained primarily within its analysis of the relationship between economic interests and the existence, function, and purposes of penal institutions. Its myopic economic determinist approach, however, ignores a host of other factors that affect and shape penal institutions and practices, which have nothing to do with economics. These other factors include the importance of ideology and political forces in determining penal policy, popular support for penal practices among the lower classes; and penal reform discourse based on humanitarian arguments, judicial

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<sup>22</sup> Ibid., p.84.

<sup>23</sup> George Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New York: 1939).



rhetoric, or the dynamic negotiation concerning penal legislation and practice, which Marxists dismiss as irrelevant.<sup>24</sup>

The neo-Marxist approach as epitomized by David Rothman and Michael Ignatieff is much more sophisticated and nuanced than the economic determinist argument of the traditional Marxists. They continue to view punishment and penal institutions as a means of social control by the ruling class over lower classes. They also investigate the

wider supports of ruling-class power, particularly questions of state power, law, culture, and ideology. These are considered 'superstructural' investigations that deal with very important non-economic relations vital to the maintenance of economic power and therefore broaden the analytic concerns of the Marxist tradition.<sup>25</sup>

In *The Discovery of the Asylum*, David Rothman argues that penal institutions in America arose as a result of social crisis during the Jacksonian period. Changing social norms, morals, and perspectives combined with a liberalization of politics and rapid changes in economics, demographics, and religious beliefs caused fear in many Americans regarding the state of their society and their precarious position within it. Simultaneous with this rising feeling of insecurity, scientific developments, Enlightenment notions of progress, and an optimistic resolve to promote social stability emerged to create a unique ideological consensus concerning punishment and penalty. This new consensus led to the creation of isolated environments of reform and social

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<sup>24</sup> Garland, pps. 108-9 and Patricia O'Brien, "Crime and Punishment as Historical Problem" in *Journal of Social History*, vol. 11, no. 4 (Summer, 1978) pp. 508-20.

<sup>25</sup> Garland, p. 87.

control where the deviant, the insane, and the sick could be disciplined, controlled, rehabilitated, and cured thereby fixing the woes of society by keeping these undesirables from corrupting the lower/working classes. Among all of these institutions of control, the prison emerged as the ultimate example of order and discipline and it was even seen as a model society, one that could be emulated in the chaotic and disorganized cities of Jacksonian America.<sup>26</sup>

Similar to Rothman, Michael Ignatieff locates the birth of the prison in nineteenth century England within a discourse of social crisis as a result of a breakdown of traditional societal ties, increased urbanization, liberalization of politics, and the emergence of capitalist market and social relations. The creation of the prison was a direct result of the industrial revolution and the dominant class's attempts at gaining greater social control over the poorer classes in order to more fully centralize its power and protect and increase its economic prosperity.<sup>27</sup>

The strengths of both Rothman's and Ignatieff's arguments are found within there historicization of the emergence of penal institutions in Jacksonian America and industrial Britain, in terms of social and moral crisis, political liberalization, a desire for social control over the lower classes, and a new sense of progress and ability to fix such problems. Both assert that penal policies and institutions are not a result of a monolithic process determined simply by one's relationship to the means of production, but are

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<sup>26</sup> David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (New York, 2002; org. edition 1971, reprinted and revised 1990).

<sup>27</sup> Michael Ignatieff, *A Just Measure of Pain: The Penitentiary and the Industrial Revolution, 1750-1850* (New York, 1978).

instead a result of multiple forces and determinants, which are both conflicting and concurring in any specific historical conjuncture. Unfortunately, their arguments still make penal institutions and policies a result of one's relationship to the mode of production and class interests in the 'last instance.' This assumes that penal policy debates, which are motivated by issues other than class interests or economics, such as humanitarian, religious, or scientific, are still "constrained by the structures of social power and the invisible pressures of the dominate class culture."<sup>28</sup>

Michel Foucault's *Discipline and Punish: The Birth of the Prison* explicates the Foucauldian methodological approach to penalty and penal institutions. The central purpose of his work is to explain the disappearance of punishment as a public spectacle of violence against the body and to account for the emergence of prisons and incarceration as the normative form of modern punishment in modern France. As mentioned above, his argument centers on how power interacts with knowledge through technologies of discipline and surveillance in order to gain increased social control by one societal class over another. This relationship between power and knowledge in order to gain and/or exert control over another constitutes the parameters within which all societal relations and social institutions function. The prison and other institutions of social control and the techniques that were developed in regards to better discipline and surveillance are direct products of this relationship between power and knowledge.

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<sup>28</sup> Garland, pp. 124-25.

Foucault's argument treats class conflict and economic determinism as superficial reasons for the exercise of power and knowledge in order to gain social control.<sup>29</sup>

His concern is thus with power and its materialized forms – a matter of structural relationships, institutions, strategies, and techniques – rather than with concrete politics and the actual people they involve. In Foucault's conception, power is a pervasive aspect of social life and is not limited to the sphere of formal politics or open conflict.<sup>30</sup>

Punishment then becomes a 'political tactic' in order to exercise power over the body. Similar to any other institution, penal institutions utilize systems of production, domination, and socialization in order to subjugate and render the body docile, malleable, and self-disciplining.

Foucault's argument has made a valuable contribution to the study of penality in terms of the relationship between power and knowledge, how techniques of discipline and surveillance increase power, how power is exercised through these new technologies, and the effects these new technologies have upon individuals in terms of control.

Through his investigation into the effects that surveillance, observation, and inspection, and of disciplinary training, examination, and normalization – together with the physical, architectural, and organizational forms in which they are embodied – we begin to better understand the material practices that modern penal systems are based upon.<sup>31</sup>

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<sup>29</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. By Alan Sheridan (New York, 1995).

<sup>30</sup> Garland, p. 138.

<sup>31</sup> Ibid., p. 152.

Notwithstanding the enormous contributions Foucault's works have provided to the study of penality, there are also major lacunae in his approach and methodology. One of the major weaknesses of his argument is that it remains in the realm of the ideal. In *Discipline and Punish*, Foucault bases his analysis of the use of power and knowledge in prisons upon the hypothetical plans of such reformers as Jeremy Bentham. To Foucault, Betham's panopticon represents the ultimate example of the exercise of knowledge and power in order to gain maximum control over the inmate's body and soul. Unfortunately, Betham's panopticon penitentiary remained in the conceptual realm. His grand scheme never materialized as a physical, operating structure. Foucault never acknowledges this important point. As Rothman points out, "for Foucault, motive mattered more than practice. Let public authorities formulate a program or announce a goal, and he presumed its realization. He mistook fantasy for reality."<sup>32</sup> Granted Foucault's argument is not solely focused on the establishment of these mechanisms of power or their physical realization, but on what these new technologies and practices tell us about society. However, if such an important design, such as the panopticon, was never built or realized, does not this fact reveal important insights into how society works and its sensibilities? For all the emphasis Foucault places on the explanatory power of the panopticon regarding society's adoption of these modern disciplinary technologies and their importance to the modern world, he ignores the important insights gained into the state-society relationship from the fact that the panopticon was never built in modern Europe, let alone France.

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<sup>32</sup> Rothman, p. xix.

Foucault's argument also denies agency to those who are the objects of these new technologies of power. He does not allow them the ability to resist and alter the intended outcomes of these practices. In Foucault's account of penal institutions and practices, he never discusses how resistance augments and undermines the effects these tactics were supposed to produce within a 'total institution,' such as a penitentiary.<sup>33</sup> Patricia O'Brien's *The Promise of Punishment* demonstrates how prison subcultures defied penal institutions' idealized instrumentalities of discipline, surveillance, and social control through such actions as tattooing, finding ingenious ways to communicate, bribing guards, and prostituting themselves in nineteenth-century French penitentiaries. These actions undermined many of the tactics utilized by penal institutions in order to control and 'rehabilitate' the criminal.<sup>34</sup> Resistance may also lead to the development of new and more effective methods and techniques of discipline and control.

Foucault's argument, in many cases, is also ahistorical. He makes it perfectly clear that he is not a historian, but more of a philosopher. His eclectic style, incredible explanatory power, and quasi-historical approach have made him very popular with historians. In many cases he attempted to universalize his claims, when in reality his studies were centered on modern France. He also claims that all systems, functions, decisions, morals, and actions within any society are fundamentally based upon control

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<sup>33</sup> According to Daniel Goffman's *Asylums: Essays on the Social Situation of Mental patients and Other Inmates* (Chicago, 1962), p. 4., a 'total institution' is "a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life." Examples of 'total institutions' include asylums, hospitals, some types of schools, the military, and prisons.

<sup>34</sup> See Patricia O'Brien's *The Promise of Punishment: Prisons in Nineteenth-Century France* (Princeton, 1982).

and power as its primary determinant. This is simply replacing Marx's all-encompassing economic determinant with a different one.

Because Foucault makes power and social control the all-encompassing determinant for societal relationships, he ignores the numerous countervailing forces that attempt to protect human rights, extend freedoms, and improve living conditions and the quality of life within prisons. He also ignores the political and practical decision-making processes that act to limit the effective use of discipline and surveillance in order to better control the bodies and minds of prisoners, because of monetary restraints or other factors.

Finally, Foucault's approach to prisons, power, and penalty as examples of the modern state's achievement of dominance over society, incorrectly draws a concrete barrier between a reified state and society. Foucault portrays power as flowing unidirectional from the state as it is exercised over society when in reality the divide between state and society and the state's apparent domination over society is actually murky, convoluted, and constantly shifting through negotiation and conflict.<sup>35</sup>

Each of these four approaches to punishment and penal institutions are useful for limited inquires into specific areas of punishment and penalty. Each one effectively focuses upon a particular aspect of penalty and gives important and useful insights into understanding the overall picture of this complex social institution, however, not one by itself offers a full view of penalty. What is needed then is a more comprehensive

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<sup>35</sup> See Timothy Mitchell, "The Limits of the State: Beyond Statist Approaches and their Critics" in *American Political Science Review*, 85/1 (March, 1991), pp. 77-96.

approach to the study of penalty. David Garland's *Punishment and Modern Society* offers such a broadly applicable approach.

Garland calls for a "multidimensional interpretative approach, which sees punishment as an overdetermined, multifaceted social institution."<sup>36</sup> This approach views punishment and penalty, as manifested in institutions like the prison, as 'social artifacts,' which embodies and regenerates wider cultural categories as well as being a means to serve particular penological ends. Like architecture, clothing, or diet, punishment cannot be explained by its instrumental purpose alone, but must also take into account its cultural style, historical tradition, and a dependence upon institutional, technical and discursive conditions. Punishment is a legal institution, administered by the state, but it is also grounded in wider patterns of knowing, feeling, and acting, and it depends upon these social roots and supports for its continuing legitimacy and operation. It is also grounded in history, for like all social institutions, modern punishment is a historical outcome which is only imperfectly adapted to its current situation. It is a product of tradition as much as present policy. There are many conflicting logics that go into punishment in any given society. Like all social institutions punishment shapes its social environment as much as it is shaped by it. Penal sanctions and institutions are not simply dependent variables at the end of some finite line of social causation. Like all social institutions, punishment interacts with its environment, forming part of the mutually constructing configuration of elements, which make up the social world.<sup>37</sup>

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<sup>36</sup> Garland, p. 2.



## **Penal Institutions in the Ottoman Empire**

This present study is an attempt to apply and test Foucault's approach to the birth of the modern prison, taking into account the other approaches, especially Garland's methodology mentioned above, to a Middle Eastern context, specifically the Ottoman Empire in the late nineteenth and early twentieth centuries. While in the Ottoman Imperial Archives in Istanbul, I found extensive and detailed statistics, which were collected from every prison from across the empire. I found photographs of prisons and prisoners, architectural designs, building projects, expenditure reports, and reports on prison sanitary and health conditions. I found investigative reports and interrogations related to prisoner abuse, guard-prisoner collusion, and corruption; debates regarding prisoner nutrition, punishment, rehabilitation, and women and children in prisons. I also uncovered extensive and elaborate prison reform programs, new penal codes, and new prison regulations that dealt with larger imperial issues and concerns.

As a result of uncovering these sources, I quickly realized that prisons were vital and intrinsic to many facets of state construction within the Ottoman Empire during the Second Constitutional Period. Similar to Foucault's assessment of French Prisons, I argue that prisons played a crucial role in the Committee of Union and Progress' (CUP) state formation program by acting as instruments of social control, public order and

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<sup>37</sup> Ibid., p. 19-22.

discipline. This was clearly one reason for the CUP's interest in reforming, professionalizing, and centralizing prisons and other penal institutions, such as the police.

Since the late eighteenth century the Ottoman Empire had been subject to continual territorial loss as a result of nationalist secessionist movements, European Economic Encroachment, and Imperialism. The ten years known as the Second Constitutional Period, however, were a time of acute and continual imperial crisis. This period was characterized by continuous civil, political, and military strife, which included two Balkan wars, numerous secessionist movements, strikes, rebellions, riots, two coup d'états, a counter coup, and a war with Italy, not to mention the First World War. As a direct result of this continual upheaval the CUP established both the Directorate of Prisons and the Directorate for Public Security in order to impose social control and discipline upon the Ottoman population.

My argument regarding the role of penal institutions in Ottoman modern state construction, however, goes far beyond Foucault's. Not only were they important instruments of social control and discipline, but members of the Committee of Union and Progress also utilized prisons as 'laboratories of modernity' in an attempt to transform all facets of the six hundred year old empire into a modern and powerful nation-state capable of maintaining Ottoman territorial integrity, centralizing power into the hands of the state, quelling internal rebellion, creating an industrialized, capitalist economy based on a Muslim entrepreneurial middle-class, and capable of staving off European imperialism and economic encroachment. It was within the walls of Ottoman prisons that many of the pressing questions of modernity were worked out, such as administrative reform and

centralization, the role of punishment in the rehabilitation of prisoners, economic reform and industrialization, issues of gender and childhood, the implementation of modern concepts of time and space, issues of national identity based on ethnicity and religion, social engineering, and the role of the state in caring for its population through public health and hygiene. These are all in addition to social control and discipline. Therefore, prisons possess the ability to act as effective windows into the process of Ottoman modernity and provide clear insights into the broader socio-economic, political, cultural, and ideological issues and developments of this critical period in late Ottoman history.

## **Outline of this Study**

Chapter one, “Civilization, Defensive Modernization, and Penal Reform during the Tanzimat and Hamidian Eras, 1839-1908,” begins in the nineteenth century where prisons and prison reform were first connected with defensive developmentalist reforms, concepts of civilization, and modernization in the Ottoman Empire. These reforms, though, were in word only and ineffectually implemented. They did, however, lay the foundation upon which succeeding regimes built. It was not until the Young Turk Revolution of 1908 and the ascension to power of the Committee of Union and Progress that prison reform became a central facet of nation-state construction and modernization for the entire empire.

In chapter two, “Ottoman Prisons: CUP Laboratories of Modernity,” I provide an overview of prison and penal reform during the Second Constitutional Period in order to substantiate my claim that Ottoman prisons were utilized as ‘laboratories of modernity’ for the nation-state construction programs of the Committee of Union and Progress. I look at how statistics were used by the CUP to gain power and knowledge regarding the prison populations of the empire and to generate their penal reform programs. This chapter argues that the use of statistics was intrinsic to CUP ideology, which was based on Comtian Positivism. Positivism had such a powerful influence on CUP ideology that its members viewed themselves as the *savant* or elite avant-garde and as the harbingers of modernity to the Ottoman Empire. Because of their Western educations based on modern science, these junior military officers and bureaucrats possessed the proper skills and knowledge to bring progress, reason, and civilization to the Ottoman Empire. It was their calling and duty to raise the empire “to the level of a scientific society.” Only the CUP was capable of rescuing the empire from destruction through its creation of a centralized, political, rational state. Prisons became a scientific laboratory for the implementation of the CUP’s imperial vision.

In subsequent chapters of this work, I further extend and deepen my argument that prisons acted as ‘laboratories of modernity’ by analyzing, in greater detail than in chapter two, the questions of modernity the CUP dealt with through their prison reform programs. Generally speaking these chapters also discuss how these reforms were justified and implemented. I also discuss the possible insights they can provide into wider political, social, cultural, ideological, and economic issues of the day.

Chapter three, “Consolidating CUP Power and Authority over Crime: The Imperial Ottoman Penal Code, the Ottoman Prison Survey, and the Abrogation of Islamic Law,” consists of an analysis of the extensive revisions to the 1858 Imperial Ottoman Penal Code carried out by the CUP led Ottoman Parliament in 1911. I demonstrate that these penal code reforms worked in careful unison with the extensive prison reforms simultaneously initiated. I also investigate the content and results of the 1912 Ottoman Prison Survey in order to gain insights into CUP views on crime, punishment, criminal courts, and prisoners as part of the CUP’s imperial regeneration program. The CUP’s central goal was to rationalize and centralize power over the criminal justice system within the hands of the state and gain a monopoly on the use of punishment at the expense of Islamic legal institutions.

Chapter four, “Constructing the Nation by Categorizing the Incarcerated: The Ambiguity and Fluidity of *Millet* Identity in the Late Ottoman Empire,” focuses on a detailed analysis of the ambiguous and convoluted meaning of the word *millet* during the Second Constitutional Period, especially as it was used in the annual Ottoman Prison Survey questionnaires. *Millet* and its derivatives were used in a variety of ways to designate religious, ethnic, and national identity within the same section of the questionnaire. This led to confusion among prison officials attempting to collect data on the identity of the prisoners and resulted in numerous recording errors. In later versions of the survey questionnaire, *millet’s* meaning was circumscribed to ‘ethno-religious communal identity’ and no longer carried with it the meaning of ‘nationality.’ The use and meaning of the word *millet* in the Ottoman Prison Survey questionnaires calls into

question the claims of many scholars that the Committee of Union and Progress was a Turkish nationalists organization based upon its members use of the term *millet* in their writings, their membership in groups promoting pride in Turkish heritage, and their so called Turkification programs. Chapter four challenge these assumptions and argues that identity in the late Ottoman Empire, particularly regarding ethno-nationalist identity, was very fluid and that the CUP was an Ottomanist nationalist group.

Chapter five, “Disciplining the Disciplinarians: Administrative Reform and the Professionalization of the Ottoman Prison Cadre during the Second Constitutional Period,” takes a very close look at CUP administrative reforms and centralization policies in Ottoman prisons, particularly in terms of instituting new prison regimens, such as efforts to improve health and hygiene, new architecturally designed prisons, establishing prison factories, and professionalizing the prison cadre, in order to improve order, discipline, and sanitary conditions within Ottoman prisons. Intriguingly, these reforms were supposed to rehabilitate both the prisons and the empire simultaneously. The key to these administrative and centralizing reforms was the professionalization of the Ottoman prison cadre. The CUP wanted their best and brightest to fill the positions of prison officials and guards so they favored military and gendarme officers. This practice by the CUP parallels the committee’s own self image as *savant*, because of the modern educations its members received as a part of their military training and service.

Finally, chapter six, “Children in Ottoman Prisons: Redefining Childhood during the Second Constitutional Period,” delves into Ottoman, or at least the CUP’s notions of childhood during the Second Constitutional Period, particularly regarding children in

Ottoman prisons. The CUP went to great lengths to protect children from serving prison sentences by changing the legal definition of what was a child and removing that power from Islamic law. By taking responsibility over the protection of children subject to the criminal justice system, the CUP was increasing the state's intervention into the private sphere, changing the notions of childhood, and even introducing the concept of adolescence into the Middle East. The CUP was also simultaneously reworking the public sphere through the abrogation of Islamic legal authority to determine childhood and to adjudicate in any criminal matters. Children were beginning to be viewed as the future survival and prosperity of the state and nation.

## Chapter One

### **Civilization, Defensive Modernization, and Penal Reform during the Tanzimat and Hamidian Eras, 1839-1908**

During the nineteenth century the Ottoman Empire experienced a series of internal and external crises as a result of separatist movements, rebellions, financial problems, military defeats, and European economic and imperial encroachment. In the face of these threats, the Ottoman state attempted a vigorous plan of reform aimed at modernizing its bureaucracy, legal system, economy, and especially the military. Included in this imperial restructuring were efforts to reform Ottoman penal codes and prison conditions. Therefore, when the Young Turks, lead by members of the Committee of Union and Progress (CUP),<sup>1</sup> deposed Sultan Abdülhamid II and created the first of their two major penal institutions in August 1909, the association between penal reform

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<sup>1</sup> It must be noted that the Young Turks and the Committee of Union and Progress (CUP) were two related, but separate organizations. The Young Turks was an umbrella organization with a very ethnically, linguistically, religiously, and politically diverse constituency. This constituency was united primarily in its opposition to the rule of Abdülhamid II. The CUP, on the other hand, was just one of these opposition groups within the Young Turks and consisted primarily of western educated, junior level military officers and bureaucrats who were also from diverse ethnic and religious backgrounds. The CUP developed into an elitist and secretive society that often exerted great pressure on Young Turk policies and programs from behind the scenes. It was not until 1912-13 that the CUP came out in the open as a political party seizing and consolidating power within its own hands and effectively pushing out all other Young Turk groups from the Ottoman government. Therefore, the terms Young Turk and CUP are not completely interchangeable and must be differentiated. For more information regarding the diversity of and divisions within the Young Turks see Feroz Ahmad, *The Young Turks: The Committee of Union and Progress in Turkish Politics, 1908-1914* (Oxford: Clarendon Press, 1969), 205 p., and Şükrü Hanioglu, *The Young Turks in Opposition* (New York: Oxford University Press, 1995), 390 p. and *Preparation for a Revolution: The Young Turks, 1902-1908* (New York: Oxford University Press, 2001), 538 p.



and concepts, such as civilization, nation-state construction, modernization, and social engineering were already part of the Ottoman political and intellectual landscape. These ideas and practices gradually gained currency among the Ottoman intelligentsia and administration over the course of the nineteenth century.

There is an extensive secondary literature concerning Ottoman attempts at defensive modernization and nation-state construction through administrative reforms, the creation of institutions for social control, and social-engineering programs during the nineteenth century.<sup>2</sup> The Ottomans were hardly unique in this respect. States and empires around the world were designing and implementing similar programs and policies during this time period. ‘Civilizing’ projects undertaken in France during the

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<sup>2</sup> For a sample of the most important works on Ottoman reforms dealing with nation-state building see Feroz Ahmad’s “The State and Intervention in Turkey” in *Turcica* 16 (1984), 52-64; Beshara Doumani’s *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus: 1700-1900*, (Berkeley: California University Press, 1995); Abu-Manneh’s “The Sultan and the Bureaucracy: The Anti-Tanzimat Concepts of Grand Vazier Mahmud Nedim Pasa,” *IJMES* 22 (1990), 257-74; Roderic Davison’s *Reform in the Ottoman Empire, 1856-1876* (Princeton, NJ: Princeton University Press, 1963); Selim Deringil’s *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909*. (London: I.B. Tauris, 1999) and “Legitimacy Structures in the Ottoman State: The Reign of Abdulhamid II (1876-1909),” *IJMES* 23 (1991), 345-59; Khaled Fahmy’s *All the Pasha’s Men: Mehmed Ali, his army and the making of modern Egypt* (Cambridge: Cambridge University Press, 1997); Carter Findely’s *Bureaucratic Reform in the Ottoman Empire. The Sublime Porte 1789-1922* (Princeton, NJ: Princeton University Press, 1980); Bernard Lewis’ *The Emergence of Modern Turkey* (Oxford: Oxford University Press, 1961); Ussama Makdisi’s *The Culture of Sectarianism* (Berkeley: University of California Press, 2000); Şerif Mardin’s *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas* (Princeton, NJ: Princeton University Press, 1962); Roger Owen’s *The Middle East in the World Economy 1800-1914* (London: Methuen, 1981); Şevket Pamuk’s *The Ottoman Empire and European Capitalism, 1820-1913* (Cambridge: Cambridge University Press, 1987); Donald Quartaert’s “The Age of Reforms, 1812-1914” in Halil İnalcık and Donald Quartaert (eds.) *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge: Cambridge University Press, 1994), pp. 759-933 and *Social Disintegration and Popular Resistance in the Ottoman Empire, 1881-1908: Reactions to European Economic Penetration* (New York: New York University Press, 1983); Eugene Rogan’s *Frontiers of State in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 1999); İlhan Tekeli’s “The Public Works Program and the Development of Technology in the Ottoman Empire in the Second Half of the Nineteenth Century” in *Turcica* 28 (1996), pp. 195-234; and Zafer Toprak’s “Modernization and Commercialization in the Tanzimat Period: 1838-1875” in *New Perspectives on Turkey* 7 (1992), pp. 57-70.

nineteenth and twentieth centuries have been described as being “akin to colonization.”<sup>3</sup> In the region of Transjordan, for example, the Ottoman state undertook projects to improve agriculture, infrastructure, and education; it also settled Bedouins and immigrant populations, registered land ownership, and conducted population registration campaigns and military conscription.<sup>4</sup>

Sultan Abdülhamid II (1876-1909) attempted to legitimate his rule and his modernizing reforms through the use of Islamic symbols, mass education, building projects, elaborate public ceremonies, and missionary activity within the empire. The goal of these actions was to foster an ideologically homogenous population, at least among Ottoman elites, and establish a national ‘Islamic’ identity and culture known as Ottomanism (*Osmanlılık*).<sup>5</sup> The palace and the Sublime Porte, the sultan and the bureaucracy respectively, also implemented programs to ‘civilize’ and control segments of the population deemed ‘backwards’ and ‘savage,’ such as Arab Bedouins, the Druze community, Kurds, Armenians, and Bulgarians. This “colonial project” or “Ottoman civilizing mission” consisted of specific programs, such as propaganda campaigns, proselytizing, and even a special ‘tribal school’ set up in order to turn the sons of ‘savage’ Bedouin chiefs into ‘civilized’ Ottomans. This in turn would allow these newly

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<sup>3</sup> See introduction of Eugen Weber’s *Peasants into Frenchmen: The Modernization of Rural France, 1870-1914* (Stanford, CA: Stanford University Press, 1976).

<sup>4</sup> Eugene Rogan’s *Frontiers of State in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 1999), pp. 1-20.

<sup>5</sup> See Feroz Ahmed’s “The State and Intervention in Turkey” in *Turcica*, vol. 16 (1984), pp. 53-64 and Deringil’s *The Well-Protected Domains*, pp. 1-15.

‘civilized’ savages to bring the Ottoman imperial center’s ‘reason,’ ‘progress,’ and ‘civilization’ to their ‘uncivilized’ tribesmen.<sup>6</sup>

## Penal Policy and Civilization

By the mid-nineteenth century, Ottoman understanding of nation-building and civilization became linked with penal policy. The mutual association of these concepts entered the *mentalité* of the Ottoman intelligentsia from many Western European sources. One of the most influential Western European source was the long served, British ambassador to the Ottoman Empire, Sir Stratford Canning.<sup>7</sup> He invested a great deal of time and energy in promoting Westernizing reforms among the Ottomans and saw the empire’s advancement in “European” and “Christian civilization” as the only hope for solving the Eastern Question.<sup>8</sup> According to Ambassador Canning, it was Britain’s

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<sup>6</sup> See Selim Deringil’s “‘They Live in a State of Nomadism and Savagery’: The Late Ottoman Empire and the Post-Colonial Debate” in *Comparative Studies of Society and History*, vol. 45 (April, 2003), pp. 311-42 and Ussama Makdisi’s “Ottoman Orientalism” in *The American Historical Review*, vol. 107 (June 2002), pp. 768-96. For a more complete discussion on this tribal school see Eugene Rogan’s “Asiret Mektebi: Abdulhamid II’s School for Tribes (1892-1907)” in *IJMES*, vol. 28 (February, 1996), pp. 83-107.

<sup>7</sup> For more detail on the life and works of Ambassador Canning see Stanley Lane-Poole, *The life of Lord Stratford de Redcliffe* (London: Longmans, Green and Co., 1890) and Leo Gerald Byrne, *The Great Ambassador: a study of the diplomatic career of the Right Honourable Stratford Canning, K.G., G.C.B., Viscount Stratford de Redcliffe, and the epoch during which he served as the British ambassador to the Sublime Porte of the Ottoman Sultan* (Columbus, OH: Ohio State University Press, 1964).

<sup>8</sup> The Eastern Question was taken up by the Concert of Europe during the nineteenth century and mainly revolved around what to do with the weakening Ottoman Empire. The Great Powers (Britain, France, Russia, Germany, and Italy) debated whether or not to divide the Ottoman Empire up amongst themselves, prop it up, or do a combination of the two. Regardless of how the Great Powers decided to deal with the Ottoman Empire, the Eastern Question was always centered on maintaining the balance of power within Europe. Great Britain chose to be the champion of maintaining Ottoman territorial integrity in order to maintain equal power relations within Europe and to avoid a major war. Therefore, British officials, such

“duty...[and] vocation...not [to] enslave but to set free...Our task is to lead the way and to direct the march of other nations.”<sup>9</sup>

In 1851, as part of Ambassador Canning’s indefatigable campaign to further Ottoman modernizing reform efforts, he directed extensive investigations into Ottoman prison conditions and penal practices. As a result of these investigations, in 1851 Ambassador Canning filed a lengthy report entitled “Memorandum on the Improvement of Prisons in Turkey” with the British Foreign Office. This report, with all of its Orientalist, colonialist, and ‘white man’s burden’ presuppositions, describes the woeful state of Ottoman prisons at mid-century and clearly links prison reform with the advancement of European civilization in the Ottoman Empire as the following passage from the report’s ‘preamble’ demonstrates.

So long as crime exists among men so long as offences are committed so long as the passions are not kept in perfect submission to piety and reason, provision must be made for the custody of those who are suspected or convicted of having violated the law. There is no country so barbarous but that some places are set apart by authority for this purpose. But in proportion as sentiments of humanity prevail and civilization advances the duty of thus protecting society is performed without those abuses and cruelties which disgraced the earlier ages of mankind among the most civilized nations of modern Europe, and also in the United States of America, great progress has been made in the science of prison improvement. All unnecessary vigour is gradually disappearing in those countries from public places of confinement. The health of every prisoner is then made an object of refined attention. Even that degree of comfort which is consistent with personal restraint, and the end for which penal laws are enacted, is by no means overlooked. Where matters of this kind are best understood every prison is gradually

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as Ambassador Canning, were keen to assist Ottoman modernization programs and promote British economic interests within the empire. These two interests often conflicted with each other, however the economic interests usually prevailed.

<sup>9</sup> Quoted from Allan Cunningham’s “Stratford Canning and the Tanzimat,” in William Polk and Richard Chambers (eds.) *Beginnings of Modernization in the Middle East, the Nineteenth Century* (Chicago: University of Chicago Press, 1968), pp. 245-64. Regarding Stratford Canning’s effect on Ottoman prison reform in the nineteenth century see Gültekin Yıldız, “Osmanlı Devleti’nde Hapishane Islahatı (1838-1908),” MA thesis (Marmara University: 2002), pp. 93-155.

becoming more and more a house of penitence and industry, a school of moral and religious instruction.

This system is calculated to confer great benefits on society, not only with respect to offenders, but with respect also to those who look after them, and to the community at large. Its immediate tendency is to diminish the numbers of criminals by reclaiming many who have entered on the first states of crime. Its general effects are humanizing. Those who learn to blend mercy with justice, to carry out the law in a spirit of correction rather than vengeance, and to treat crime like disease with a view to cure acquire dispositions reasonable to the exercise of social virtue in other respects. The expenses incurred by an improved system of prisons are thus compensated and after a time their gradual diminution would be a natural consequence of its success.

In Turkey where prisons exist in every city and town of a certain extent, and where little attention has hitherto been paid to the science of constructing and administering them, there is ample room for improvement without any considerable out lay. Much unnecessary bodily suffering, much of the evil resulting from moral contagion and from a corrupt and cruel exercise of authority not contemplated by the law, may be removed at once by a few judicious regulations and corresponding arrangements. Even the adoption of these indispensable preliminaries to a more complete system of improvement could hardly be effected without some additional expense. But in the present advanced state of human knowledge and public opinion no government which respects itself and claims a position among civilized communities can shut its eyes to the abuses which prevail, or to the horrors which past ages may have left in that part of its administration which separate the repression of crime and the personal constraint of the guilty or the accused.<sup>10</sup>

Consequently this report was submitted directly to the Ottoman “Sultan’s confidential advisors” in hopes that some change to Ottoman penal practice and policy might be affected.<sup>11</sup> Ambassador Canning clearly associated modern penal practices, such as the moral rehabilitation of prisoners, proper health and hygiene, and crime prevention with progress, reason, scientific advancement, and European ‘civilization.’

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<sup>10</sup> See Ambassador Sir Stratford Canning’s report submitted to both the Ottoman Sultan and the British Foreign Office in British National Archives (BNA), F.O. 195/364, pp. 1-32. This Foreign Office record not only contains Canning’s report including his suggestions for improving the Ottoman Empire’s prisons, but also includes all of the documents and investigations which were submitted by the various British Consuls around the empire, including prisons located in the European, Asiatic, African, and the archipelago regions of the empire. The questionnaire that all British consular officials utilized in order to investigate and report on the prisons they visited consisted of a list of thirty standardized questions.

<sup>11</sup> BNA, FO 195/364, p. 8.

The connection which Canning made between the advancement of civilization and penal institutions was not a fleeting association. In 1910, Sir Winston Churchill, as British Home Secretary, made the following statement regarding the direct connection between a nation's level of civilization and its penal practices. "The mood and temper of the public with regard to the treatment of crime and criminals is one of the unfailing tests of the civilization of a country."<sup>12</sup> Notwithstanding a gap of nearly sixty years between Churchill and Canning, the connection between prison reform and "the civilization of a country" was prevalent in European discourse. In fact, the origin of this connection dates back to the second half of the eighteenth century.<sup>13</sup>

According to Canning's report on Ottoman prisons, health and living conditions were atrocious. Most prisoners had little access to fresh air, adequate food, or medical treatment. Prisons were makeshift and they were usually located in local military compounds, fortresses, or in government offices. Prisoners primarily depended upon family, friends, or religious endowments for their meager sustenance. All kinds of

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<sup>12</sup> As quoted by Roy Jenkins in *Churchill: A Biography* (New York: 2001), pp. 179-82.

<sup>13</sup> For the eighteenth century debate on prison reform see the influential works of John Howard, Jeremy Bentham, and Cesare Beccaria, such as Jeremy Bentham's series of letters written in 1787 regarding his concept of the Panopticon, which would improve the surveillance capabilities and discipline of not only prisons, but of any 'total institution' including the work house, hospital, manufactories, schools, etc., Cesare Beccaria's *Of Crimes and Punishments* originally published in 1764 in Italian, and John Howard's famous treatises *The State of Prisons in England and Wales, with an Account of Some Foreign Prisons* in 1777 and *An Account of the Principle Lazarettos in Europe and Additional Remarks on the Present State of Prisons in England and Ireland* in 1787.

For a detailed and useful analysis of the links between prison reform and the concept of civilization in Europe and its colonial offshoots, particularly English speaking regions, see John Pratt's *Punishment and Civilization: Penal Tolerance and Intolerance in Modern Society* (London: Sage Publications, 2002), 213 p. Pratt's study is particularly useful for my study of Ottoman penal reform because the British had greater sway and reformatory influence on the Ottoman imperial administration than any other Great Power during the nineteenth century and up until the commencement of World War I.

prisoners were incarcerated together: the accused with the convicted, the petty criminal with the felon, adults with children, and sometimes even men with women. According to Canning, immediate and extensive reforms were required for both Ottoman prisons and the imperial criminal code.<sup>14</sup>

## Tanzimat Era Penal Reforms, 1839-1878

The creation of the first Ottoman penal code based on a modern, secular model was adopted in 1840<sup>15</sup> shortly after the 1839 declaration of the Imperial Rescript of the

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<sup>14</sup> BNA, F.O. 195/364.

<sup>15</sup> A thorough study and analysis of the creation and development of Ottoman criminal law in the nineteenth and twentieth centuries has yet to be written, but the following section is culled from a number of secondary and primary sources which treat this topic in a cursory manner. The texts of the various Ottoman Penal Codes can be found in Ahmet Akgündüz, *Mukayeseli İslam ve Osmanlı Hukuku Külliyyatı* (Diyarbakır: Dicle Üniversitesi Hukuk Fakültesi Yayınları, 1986), pp. 811-19 and 821-23; *Düstur*, vol. I, pp. 400-68; John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code: A Translation from the Turkish Text* (London: Oxford University Press, 1913), 243 p. Other important sources on the legal history of the Middle East, particularly the penal codes of the Ottoman Empire and Egypt are Uriel Heyd, *Studies in Old Ottoman Criminal Law* (Oxford: Clarendon Press, 1973), 340 p.; Gabriel Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," *Studia Islamica*, no. 45 (1977), pp. 139-58 and "Tanzimat in Egypt: the penal code," in *Studies in the social history of modern Egypt* (Chicago: Chicago University Press, 1969), pp. 109-26; Serpil Bilbaşar's "Hapis cezasının örgütsel ve hukuksal gelişimi" *Birikim*, vol. 136 August 2000, pp. 44-8; Günihal Bozkurt, "The Reception of Western European Law in Turkey (From the Tanzimat to the Turkish Republic, 1839-1939)," *Der Islam*, 75/2 (1998), pp. 283-95. This article is a very short summary of his *Batı Hukukunun Türkiye'de Benimsenmesi* (Ankara: Türk Tarih Kurumu Basımevi, 1996), 238 p.; Rudolph Peters' *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (Cambridge: Cambridge University Press, 2005), pp. 128-33 and "Divine Law or Man-made Law? Egypt and the Application of the Shari'a," *Arab Law Quarterly*, vol. 3, no. 3, (Aug., 1988), pp. 231-53, "Egypt and the Age of the Triumphant Prison: Legal Punishment in Nineteenth Century Egypt," *Annales Islamologiques*, vol. 32 (2002), pp. 253-85, "For His Correction and as a Deterrent Example for Others: Mehmed Ali's First Criminal Legislation (1829-1830)," *Islamic Law and Society*, vol. 6, no. 2, (1999), pp. 164-92, "Islamic and Secular Law in Nineteenth Century Egypt: The Role and Function of the Qadi," *Islamic Law and Society*, vol. 4, no. 1, (1997), pp. 70-90, "The Codification of Criminal Law in 19<sup>th</sup> Century Egypt; Tradition or Modernization," in *Law, Society, and National Identity in Africa*, eds. Jamil M. Abun-Nasr, Ulrich Spellenberg, and Ulrike Wanitzek, (Hamburg: Helmut Buske Verlag, 1990), pp. 211-

Rose Garden (*Gülhane Hatt-ı Hümayun*).<sup>16</sup> This Code of 1840 (*Ceza Kanunnamesi*) consisted of thirteen articles in forty-two sections and an epilogue. The main criminal issues covered by this code were treason, incitement to rebellion, embezzlement of state funds, tax evasion, and resistance to authority. It also stipulated that the punishment of incarceration with hard labor would be added to the traditional penalty of blood-money for the crime of homicide. This was an important combination of civil and religious law not previously enacted in an Islamic society. Other items dealt with in the Code of 1840 included changes in legal procedure and punishments for other criminal offenses. For the first time in the Ottoman Empire, this code stipulated specific punishments for offenses which included reprimands, corporeal punishments, incarceration, banishment, and hard labor. This code did not, however, sever the dual system of Islamic and political law within the Ottoman Empire. Some offences continued to be adjudicated by the separate systems, but others were handled jointly. Because no code of criminal procedure was enacted at this time, Islamic legal procedures still applied to criminal proceedings.<sup>17</sup>

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25; Ahmet Gökçen's *Tanzimat dönemi Osmanlı ceza kanunları ve bu kanunlardaki ceza müeyyidleri* (İstanbul: Ahmet Gökçen, 1989), 174 p.; and "Criminal Law" in *The Oxford Encyclopedia of the Modern Islamic World*, vol. I (1995), ed. John Espisito, pp. 329-33.

<sup>16</sup> The *Gülhane Hatt-ı Hümayun* or the Imperial Decree of *Gülhane* issued in 1839 called for, among other things, "guarantees to all Ottoman subjects of perfect security for life, honor, and property; a regular system of assessing taxation; and an equally regular system for the conscription of requisite troops and the duration of their service." See J.C. Hurewitz, *The Middle East and North Africa in World Politics: A Documentary Record*, vol. 1: *European Expansion, 1535-1914* (New Haven, CT: Yale University Press, 1975), pp. 268-70. This decree combined with the *Islahat Fermanı* (discussed below) were the backbone of Ottoman reform programs during the era of the *Tanzimat* (restructuring and reform). These decrees effectively made all Ottoman subjects, regardless of religious affiliation or ethnicity, equal before the law.

<sup>17</sup> See Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, p. xii-xiii and Peters, *Crime and Punishment in Islamic Law*, pp. 127-33.



The inadequacies of the Code of 1840 were addressed superficially by the 1851 Penal Code or New Code (*Kanun-i Cedid*) which consisted of forty-three articles organized into three chapters. This 'New Code' more completely fulfilled the demands of the 1839 *Gülhane* Decree by focusing on offences involving crimes against life, honor, and property, such as forgery, abduction of girls and the making of indecent advances. This new penal code also assumed greater authority from Islamic courts regarding the trying of homicide cases. The 1851 Penal Code also made provisions for the treatment of sick prisoners, the punishment of slaves, and providing assistance for poor prisoners. In general, the purpose of the 1851 Penal Code was not to protect individual rights, but to assist in the maintenance of public order and the prevention of tyranny and corruption by government officials.<sup>18</sup>

Five years after Ambassador Canning submitted his "Memorandum for the Improvement of Prisons in Turkey," to the British Foreign Office and the Ottoman Sultan, he dictated the Imperial Decree of Reform (*Islahat Fermanı*) to his Ottoman counterpart in 1856. This imperial rescript was issued to fulfill a host of European Powers' aspirations regarding the Ottoman Empire. Among the most important of these goals was first, the preservation of the Ottoman Empire's territorial integrity; second, the maintenance of Europe's internal balance of power; third, the further penetration of Ottoman economic markets; and fourth, Europe's desire to gain greater influence among Ottoman Christian populations. The decree announced a wide range of legal and

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<sup>18</sup> See Peters, *Crime and Punishment in Islamic Law*, pp. 127-33 and Baer, "The Transition from Traditional to Western Criminal Law in Turkey and Egypt," pp. 143-44.

economic reforms including equality for all before the law, protection of property rights, citizenship, and liberty. This decree also contained a very important passage related to penal reform:

Penal, correctional, and commercial laws...shall be drawn up as soon as possible and formed into a code...

Proceedings shall be taken, with as little delay as possible, for the reform of the penitentiary system as applied to houses of detention, punishment, or correction, and other establishments of like nature, so as *to reconcile the rights of humanity with those of justice*. Corporal punishment shall not be administered, even in the prisons, except in conformity with the disciplinary regulations established by my Sublime Porte, and everything that resembles torture shall be entirely abolished.<sup>19</sup>

The proceeding portions of the *Islahat Fermanı* exemplify the early beginnings of Ottoman prison reform and maps out a very robust program to bring Ottoman punishment and incarceration up to the standards of European civilization. This edict resulted in the adoption of a new imperial penal code on 9 August 1858. The 1858 code or “Imperial Ottoman Penal Code” (*Ceza Kanunname-i Hümayunu*) translated entire portions of the 1810 French Criminal Code and replaced the Ottoman penal codes of 1840 and 1851.

The most striking difference between this new penal code and its predecessors was that it possessed, for the first time in Ottoman history, a section devoted to the protection of individual rights. Crimes against individuals were divided into three distinct categories. These categories were: “(1) crimes committed against lives and

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<sup>19</sup> Hurewitz, pp. 315-18, emphasis is my own.

individual security, (2) crimes against honour and dignity, and (3) crimes against the property of citizens.”<sup>20</sup>

The adoption of the 1858 Imperial Ottoman Penal Code (IOPC) with its inclusion of crimes against individuals represents a fundamental shift in Ottoman criminal law. For the first time in Ottoman history personal rights were taken out of the realm of religious law and placed firmly within the hands of the state. Even under the 1840 and 1851 penal codes all crimes dealing with individual rights or abuses were under the jurisdiction of Islamic Law. Now the state was responsible for not only public order and its security and perpetuation, but also for the protection of the individual, even when it had nothing to do with public order and security.<sup>21</sup>

The IOPC was never replaced during the remainder of the empire’s existence. The Ottoman administration, however, made several revisions and addendums to the IOPC over the course of the nineteenth and early twentieth centuries as necessity and ideology dictated. The most extensive changes to the code, however, occurred in 1911.<sup>22</sup>

The creation of and changes to the IOPC were a key aspect of a larger reform effort intended to overhaul, secularize, and standardize the Ottoman judicial system. This

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<sup>20</sup> See Günihal Bozkurt, “The Reception of Western European Law in Turkey (From the Tanzimat to the Turkish Republic, 1839-1939),” *Der Islam*, 75/2 (1998), pp. 283-95. This article is a very short summary of his *Batı Hukukunun Türkiye’de Benimsenmesi* (Ankara: Türk Tarih Kurumu, 1996), 238 p.

<sup>21</sup> See Baer, “The Transition from Traditional to Western Criminal Law in Turkey and Egypt,” pp. 144-45.

<sup>22</sup> See Peter’s *Crime and Punishment*, pp. 127-33 and Bucknill’s *The Ottoman Imperial Criminal Code*.

restructuring eventually included drafting the *Mecelle*,<sup>23</sup> attempts to limit the powers of Islamic court judges (*qadis*), and the creation of *Nizamiye Mahkemeleri* or civil/criminal courts which eventually superseded *shari'a* courts (Islamic Law courts) in all civil and criminal matters, except for issues relating to inheritance and family law. These changes were conscious attempts by the Ottoman Empire to prove that it possessed the same standards of civilization as Western Europe in hopes of gaining greater autonomy from European economic and imperial encroachment.<sup>24</sup>

Even more importantly, these reforms were attempts by the Ottoman bureaucracy to rationalize and centralize power and to minimize the power of individuals it had little direct control over, such as Islamic court judges (*qadis*). Judicial reforms, written legal and criminal codes, and limits placed on a judge's arbitrary right to legal interpretation were viewed by elements of the Ottoman elite as "belonging to Europe[an] civilization." These reforms "within [the] domains of the Ottoman [Empire] could accelerate...[the] transition from 'uncivilized to civilized.'"<sup>25</sup> Ottoman representatives even attended (as

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<sup>23</sup> The *Mecelle* represented the first systematic and imperial attempt to codify and modernize Islamic law (*shari'a*). It was the official civil code for the Ottoman Empire adopted in 1877. It was prepared and written from 1869-76 by a commission under the direction of Ahmet Cevdet Paşa. The *Mecelle* consists of sixteen volumes containing 1,851 articles. For a useful overview of the *Mecelle* see the *Modern Encyclopedia of Islam* edited by John Esposito. For a recent and important translation of the *Mecelle* see C.R. Tyser's, D.G. Demetriades', and Ismail Haqqi Efendi's English translation of the *Mecelle* entitled *The Mejlle: Being an English Translation of Majallah El-Ahkam-i-Adliya and a Complete Code on Islamic Civil Law* (Kuala Lumpur, Malaysia: The Other Press, 2001), 379 p.

<sup>24</sup> Peters' *Crime and Punishment*, p. 131.

<sup>25</sup> See Hasan Şen's "Transformation of Punishment Politics and Birth of the Prison in the Ottoman Empire (1845-1910)," M.A. Thesis, (Boğaziçi University: 2005), pp. 10-12 and 43-56.

observers), but did not participate in the first International Penal Congress held in London during July of 1872.<sup>26</sup>

One other step the Ottoman administration took regarding prison reform during the Tanzimat era was the construction of a model prison in the Sultanahmet district of Istanbul in 1871.<sup>27</sup> Ideally this prison was to be reproduced throughout the empire in each provincial center. Sultanahmet was the imperial center of Istanbul and the Ottoman Empire. The prison itself was located on *Tevkifhane Sokak* or Prison Road in this district.<sup>28</sup> It appears that this prison was a fulfillment of Ambassador Canning's recommendations for prison reform of 1851 when he stated

Those [the reforms regarding prisons] which relate more directly to the building, to the construction of new or the improvement of old ones, require more time and a larger expenditure. Much, however, would be gained by adopting the whole as a system, and carrying it into practice gradually – If a single prison, by way of model, were established on sound principles in the Capital, for instance, where one of a better kind has already

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<sup>26</sup> See Anthony Gorman's "Regulation, Reform and Resistance in the Middle Eastern Prison" in Frank Dikötter and Ian Brown (eds.), *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America* (Ithaca, NY: Cornell University Press, 2007).

<sup>27</sup> For a brief discussion of this prison see Gültekin Yıldız's "Osmanlı Devleti'nde Hapishane Islahatı (1839-1908)," MA Thesis (Marmara Üniversitesi: 2002), p. 192. Yıldız's thesis is the first attempt to treat Ottoman prison reform in the nineteenth century in a theoretically informed way. It is an interpretive analysis of the development of modern penal practices in the Ottoman Empire during the nineteenth century. His basic argument claims that as a result of continual internal and external imperial crisis and in an attempt to stave off European economic and imperial encroachment, Ottoman officials began to adopt modern penal practices in order to exert greater social control and discipline upon the empire's population. His thesis is very philosophical and is heavily informed by Michele Foucault's approach to modern penal institutions and 'governmentality,' however, he is uncritical of Foucault's view that 'intent' mattered much more than what was actually accomplished. Notwithstanding this minor deficiency, his thesis is savvy and extremely useful in its contribution to a little known or studied field in Ottoman history.

<sup>28</sup> This prison was utilized throughout the rest of the existence of the Ottoman Empire and well into the Turkish Republican Era. It was eventually sold and purchased by a Massachusetts based family who turned it into one of the most posh hotels in Europe called the Four Seasons Hotel. This family, ironically, allegedly made much of its money building prisons in the United States.

been formed under the Zaptie, the improvement confirmed by experience might be extended with ease throughout the empire according to local circumstances and the command of means.<sup>29</sup>

Perhaps a twenty year gap is difficult to substantiate the connection between a model prison constructed in 1871 and Canning's recommendation in 1851, however, the construction did take place and the prison was designated as a general (*umumi*) prison for the Ottoman Empire.<sup>30</sup>

It appears, however, that during the Tanzimat era the establishment of this model prison did not stimulate further prison construction throughout the rest of the empire. This model prison completed in 1871 appears to have simply been another Ottoman attempt to demonstrate to the world the Ottoman Empire's progressive and civilized nature. The main reason for building such an edifice was to procure greater political, judicial, and financial autonomy from Europe. Many Tanzimat, Hamidian, and even Young Turk reformers hoped that through reforms, such as alterations to the empire's criminal code and the building of new prisons, they could convince Europe that the Ottoman Empire was truly adopting Western standards of law and civilization. This in turn, they hoped, would lead to the abrogation of long standing capitulations and to the

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<sup>29</sup> BNA, FO 195/364, pp. 1-32.

<sup>30</sup> An *umumi* or general prison was a new designation in the Ottoman Empire and represented a prison dedicated to housing hardened criminals convicted of serious offences (*cinayet*) with a sentence of at least five years. These prisons were to be located in provincial and imperial city centers. This prison built in 1871, located in Sultanahmet represents the first of its kind within the Ottoman Empire. See BOA, DHMBHPSM 1/2 doc. 10 and Yıldız's "Osmanlı Devleti'nde Hapishane Islahatı (1839-1908)," p. 190-93.

acceptance of the Ottoman Empire as an equal by the Concert of Europe.<sup>31</sup> Notwithstanding the adoption of the 1858 Imperial Ottoman Penal Code and the creation of a model prison in the imperial capital, it was not until the Hamidian era that this model and type of prison was spread to the rest of the empire and true penal reforms were given greater than cosmetic significance.

### **Prison Reform during the Hamidian Era (1876-1908)**

Although these changes and activities mark very important steps in the direction of concrete Ottoman penal reform, further developments did not take place until the Hamidian Era (1876-1908). Prison reform simply does not appear to have been more than an Ottoman attempt to promote the appearance to the rest of the world that the empire had adopted modern standards of incarceration. As a result of these legal and judicial reforms, however, punishment and prisons began to be an issue of ‘civilization’ among the rising Ottoman intelligentsia.

Sultan Abdülhamid II exerted more effort on prison reform than did his predecessors. Reforms during the Hamidian era were legislated and implemented on several fronts—judicial proceedings in criminal matters, participation in international prison conferences, the construction of new prisons, new prison administrative regulations, and regular prison inspections. It is very plausible that the prison reform

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<sup>31</sup> This same hope and dream continues till today in the Republic of Turkey, where endless calls for reform by European powers are accepted by Turkey in hopes of procuring membership in the European Union.

legislation passed in the 1870s and 1880s came as a direct result of Ottoman attendance at international prison conferences. According to legislation entitled “Instructions for the Administration of the Provinces,” issued 21 February 1876, district officials were required to supervise prisons through the maintenance of registers and the submission of regular written reports. The separation of the convicted and accused and the prevention of arbitrary detentions was also included in this bill.<sup>32</sup>

In 1879 the Ottoman Ministry of Justice adopted wholesale the 1808 French Criminal Justice Code. The Ottoman administration named its new code the “1879 Code of Criminal Procedure” (*Ceza Muhakemeleri Usulü Kanunu*). The most significant thing about the adoption of this new code was that it established the office of public prosecutor in fulfillment of article ninety-one of the 1876 Ottoman Constitution, even though the constitution was suspended by Sultan Abdülhamid II the previous year in 1878. This was, however, the first time such an office had been established during the long history of the Ottoman Empire.<sup>33</sup>

This new criminal procedural code also regulated criminal legal proceedings, witnesses, and evidence. For example, there now existed a clear separation between the roles and responsibilities of the prosecutor and the judge, which under Islamic Law was nonexistent. The role of the police was also more clearly delineated. The police were now solely responsible for conducting criminal investigations. They would then write up

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<sup>32</sup> George Young, *Corps de Droit Ottoman*, 7 vols., (Oxford: 1905-06), ‘Instructions sur l’administration des vilayets’, 21 Feb 1876, vol. I, 88-91 and Gorman’s “Regulation, Reform and Resistance in the Middle Eastern Prison.”

<sup>33</sup> Peter’s *Crime and Punishment*, p. 129.



their findings for the public prosecutor to use in building a case against the accused. The judge's new role in these criminal proceedings was now circumscribed to adjudicating the cases and would no longer assume the newly assigned responsibilities held by the public prosecutor and the police. As a result of the 1879 Code of Criminal Procedure, the police were no longer allowed to act as judges in trying, deciding, sentencing, and meting out punishment on the spot. Previous to this new code, the police and market inspectors (*muhtasib*) were, under certain circumstances, empowered to arrest, investigate, try, and punish suspected criminals at the scene of the crime.<sup>34</sup>

Another important aspect of the new criminal procedural code was that it authorized governors to appoint prison directors, guards and committees for preliminary inquiries. These appointed committees consisted of a president, a Muslim, and a non-Muslim member. Each member of the committee possessed the authority to request information from the police and release prisoners who had been unjustly detained.<sup>35</sup>

Contemporaneous with the adoption of the 1879 Code of Criminal Procedure, Abdülhamid II charged Müfettiş Pasha with conducting a comprehensive inspection of Ottoman prisons and submitting his findings and recommendations in order to facilitate a new campaign of 'prison reform' (*hapishane ıslahatı*). He was also specifically requested, through his investigations to find ways to rescue "prisoners from their miserable conditions" (*mahbusların hâl-i sefâletten*). Müfettiş Pasha completed his

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<sup>34</sup> See Young, *Corps de Droit Ottoman*, vol. I, 88-91; Gorman, pp. 3-4; and Peter's *Crime and Punishment*, pp. 80, 99, and 129.

<sup>35</sup> See Young, vol. I, 88-91 and Gorman, pp. 3-4.

inspections and submitted his report in December 1879. Müfettiş Pasha's report contained scathing descriptions of the woeful conditions within Ottoman prisons, complaints regarding the length of sentences, and recommendations for improvement. His most intriguing recommendation concerned the newly constructed (1871) 'umumi' prison in Sultanahmet. He found this prison inadequate and proposed it be replaced. He proposed that 'umumi' or maximum security prisons should be separated from populated areas, especially the imperial center. He, therefore, recommended that Sultanahmet's prison be located on a small island in the Marmara Sea just off the coast of Istanbul. This prison would only be for criminals sentenced to fifteen or more years of hard labor.<sup>36</sup>

Shortly after Müfettiş Pasha filed his report with the Sultan Abdülhamid II and the Sublime Porte, the Ministry of Justice in May of 1880 issued "The Regulation for Prisons and Houses of Detention" (*Hapishane ve Tevkifhane Nizamnamesi*). The 1880 Ottoman prison regulation contains six sections consisting of ninety-seven articles meticulously detailing the proper administration of Ottoman prisons in both the imperial center and the provinces. The regulation includes such items as standards for health and hygiene, living conditions, and spatial separation of different types of prisoners based on gender, age, degree of crime, and status as convicted or accused. It also stipulates the types of prison officials to be employed, such as wardens, book keepers, doctors, guards for both male and female prisoners and all their associated responsibilities. Regulations regarding the conduct of prison personnel and internal prison order and discipline are also clearly delineated. Additionally, the types and manner of prison labor and the prisoners

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<sup>36</sup> For Müfettiş Pasha's report see BOA, YEE 72/37.

who were to perform it are stipulated. Prison administration on a provincial and imperial level, personnel appointments, and the chain of command are thoroughly discussed and laid out in the 1880 regulation for Ottoman prisons.<sup>37</sup>

This regulation was the first of its kind in the Ottoman Empire, however, it was never officially adopted by sultanic decree (*irade*). Regardless of its unofficial status, this regulation represents a significant step in Ottoman penal reform for at least two reasons. First, portions of this regulation were taken from the French and Prussian prison administrative regulations.<sup>38</sup> No longer were initiatives adopted wholesale by Ottoman bureaucrats from Western powers, nor were they being dictated by Westerners. Ottoman bureaucrats and prison reformers were now sifting through numerous sources of penal law, administration, and policy in order to adopt and adapt what measures best suited the Ottoman Empire's specific circumstances.

Second, it served as a template for prison reform and regulation within the Ottoman Empire. Abdülhamid II did attempt to implement the first article of the 1880 "Regulation for Prisons and Houses of Detention," which states that "Every administrative district (*kaza*), district (*liva*), and Provincial center will possess a prison and house of detention."<sup>39</sup> In almost every provincial center and in many administrative

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<sup>37</sup> BOA, DHMBHPSM 1/2 doc. 10. See also Yıldız, "Osmanlı Devleti'nde Hapishane Islahatı (1839-1908)," pp. 188-204. The 1880 *Hapishane ve Tevkifhane Nizamnamesi* was officially adopted in 1917 by the Ottoman Prison Administration under the direction of German prison reformer and psychiatrist Dr. Paul Pollitz. A much more detailed analysis of the 1880 *Hapishane ve Tevkifhane Nizamnamesi*, its implementation during the Second Constitutional Period, and the changes, addendums, and augmentations made to it by the CUP are covered in Chapter Five.

<sup>38</sup> Yıldız's "Osmanlı Devleti'nde Hapishane Islahatı (1839-1908)," pp. 192-94.

districts (*kaza*), Abdülhamid II constructed either a prison (*hapishane*) or a jail (*tevkifhane*) during his reign.<sup>40</sup> In typical Hamidian fashion, he also constructed a number of ‘model’ prisons and had pictures taken of them to show off to the rest of the world. Yes, these few prisons were built according to new architectural designs and furnished with the latest equipment, but the administration of the vast majority of Ottoman prisons did not follow the unofficial 1880 regulation.<sup>41</sup> This was, however, an example of Tanzimat cosmetic reforms taken to a higher level. It also represents a higher degree of penal reform implementation than had existed in the Ottoman Empire prior to the Hamidian era.

International prison conferences were also important events for the Ottomans, because of the prestige associated with such proceedings and because they generated ideas about prison reform. Even though Ottoman representatives attended the first International Penal Congress in 1872 as observers, they were not invited to participate in a prison conference until 1890 at St. Petersburg, Russia. Only the ‘civilized’ countries of Europe and North America participated and the topic of Ottoman involvement was

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<sup>39</sup> BOA, DHMBHPSM 1/2 doc. 10, *madde* (article) one.

<sup>40</sup> Yıldız’s “Osmanlı Devleti’nde Hapishane Islahatı (1839-1908),” p. 204.

<sup>41</sup> See photographs contained in the Istanbul University Library Photograph Album Collection under the following headings: Hapishane (Aydın) 90601/12 Hapishane (Dedeğaç) 90418/17 Hapishane (Edirne) 779-40/7 Hapishane (Edirne) 90455/17 Hapishane (Gümölcine) 90418/51 Hapishane (Halep) 90754/79 Hapishane (Kırşehir) 779-58/11 Hapishane (Rodos’ta) 90807/4,13 - 90808/2,18 Hapishane (Sakız Adası’nda) 90802/5 Hapishane (Sultanyeri) 90412/8 Hapishane (Trabzon) 90441/21 Hapishane (Urfa) 90430/13 Hapishane (Yanya’da) 91104/2 Hapishane-Koğuşu (Dimetoka’da) 779-40/10.

debated heatedly before a formal invitation was extended. This invitation marked an important step for Ottoman self-perceptions of the empire's own civility.<sup>42</sup>

The proceedings of this conference were translated by Ottoman representatives and submitted to the Ottoman Council of State (*Şura-yı Devlet*) and debated. Most of the issues discussed during the conference, however, had been addressed by the Ottoman 1880 "Regulation for Prisons and Houses of Detention" (at least on paper). In reality, these regulations were not implemented in the Ottoman domains until after the Young Turk Revolution of 1908. The Ottomans continued to participate in international prison conferences every five years until 1910 which took place in Washington, D.C.<sup>43</sup>

Notwithstanding the increased amounts of legislation (especially the 1880 regulation), participation in international prison conferences, and the construction of some 'model' prisons, penal reform was not comprehensive, nor was it viewed as vital to imperial survival during the Hamidian era. Although more action was taken and reform programs initiated, none were fully realized. One example is the Hamidian government's attempt to implement uniform health and hygiene standards within prisons. In 1896 Sultan Abdülhamid II established "The Commission for Expediting Initiatives and Reforms" (*Tesri-i Muamelat ve Islahat Komisyonu*) under the direction of the Ministry of the Interior. This commission continued its work until the Young Turk *coup d'état* in

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<sup>42</sup> See Fatmagül Demirel's "1890 Petersburg Hapishaneler Kongresi" *Toplumsal Tarih* vol. 89 (May, 2001) pp. 11-14.

<sup>43</sup> I came across several documents discussing the selection of delegates and Ottoman participation in these international prison conferences in the BOA.

July of 1908. Abdülhamid II charged this commission with conducting inspections in order to monitor the progress and hasten the implementation of his reforms.<sup>44</sup>

From a perusal of this commission's submitted reports, it appears that this commission spent a major portion of its time and energy on health and hygiene related issues in the Ottoman Empire, particularly within prisons, hospitals, and important urban areas, such as Istanbul. This is not surprising since during the Hamidian era Sultan Abdülhamid II and the Ottoman state began taking greater responsibility for issues related to public health and hygiene, especially in the prevention and spread of communicable diseases, such as cholera and syphilis.<sup>45</sup> The reports provide a general picture of prison health conditions within the empire. Most prisons were not abiding by the hygiene directives issued by the Sublime Porte under Abdülhamid II. In other words, the health and hygiene conditions of Ottoman prisons had not changed since Canning's inspections and were still generally horrific. During the time in which the commission operated (1896-1908), report after report detailed specific health concerns and described the general state of disrepair of Ottoman prisons. The archival sources on this

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<sup>44</sup> See the introduction to the DHTMIKS catalogs in the BOA and Findly, p. 253.

<sup>45</sup> For a discussion on health and hygiene reform and programs during the Hamidian era please see Nuran Yıldırım's "Tanzimat'tan Cumhuriyet'e Koruyucu Sağlık Uygulamaları" in *Tanzimat'tan Cumhuriyet'e Türkiye Ansiklopedisi*, vol. 5 (Istanbul: 1985), pp. 1318-1338; Ibrahim Halim Kalkan's M.A. thesis "Medicine and Politics in the Late Ottoman Empire: 1876-1909" (Boğazici University: 2004); and Katherine Linnea Kranzler's M.A. Thesis "Health Services in the Late Ottoman Empire: 1827-1914" (Boğazici University: 1991).

commission and the reports left behind are numerous and rich. However, these sources have only recently become available to scholars and are still untapped.<sup>46</sup>

There are two main reasons why most of the sultan's reforms regarding penal institutions were never fully implemented: the Ottoman Public Debt Administration and Abdülhamid II's absolutist reign which resulted in the emasculation of the Sublime Porte. Over the course of the nineteenth century, Ottoman sultans borrowed heavily from European businessmen and bankers eager to invest in Ottoman modernization and developmental programs. Through these joint ventures the Ottoman Empire accrued an enormous imperial debt. The servicing of this debt consumed roughly sixty percent of the Ottoman Empire's total revenues by 1874. This financial burden became so great that in 1875 the Ottomans defaulted on their loans.<sup>47</sup>

The 1878 worldwide economic depression further exacerbated the Ottoman Empire's economic and budgetary problems. This economic crisis caused the Ottoman economy to fall further into financial ruin, because of its heavy dependency on cash crops, such as tobacco and cotton. As the price of these crops plummeted, government revenues in turn dropped significantly and the Ottoman's economic situation worsened, causing them to declare *de facto* bankruptcy. Foreign investors and bankers appealed to

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<sup>46</sup> BOA, DHTMIKS catalogs. These catalogs have thousands of inspections, reports, and recommendations conducted and produced by this commission. This commission was in operation from as early as June 1896 and continued until the Young Turks took over power from Abdülhamid II in July, 1908. These documents provide excellent background on the prison health and hygiene issues the Young Turks and the CUP faced after the 1908 Revolution. A more developed discussion of these documents and their relation to CUP reforms regarding the health and hygiene of Ottoman prisons are discussed in Chapter Six.

<sup>47</sup> See Roger Owen, *The Middle East in the World Economy 1800-1914* (London: Methuen, 1981).

their respective governments for help in redressing their financial losses. A consortium of European countries including France, Germany, and Great Britain established the Ottoman Public Debt Administration (OPDA), also officially known as the *Caisse de la Dette Publique Ottomane* in 1881. The OPDA took effective control of Ottoman revenues and paid the empire's creditors. After the servicing of these debts, Abdülhamid II could use whatever was left over for his reform programs. This is the financial situation inherited by the reform-minded sultan upon his ascension to the Ottoman throne. Financial restrictions, therefore, prevented the realization of many of his programs, including prison reform.<sup>48</sup>

The decentralized and weakened nature of the Ottoman bureaucracy during the Hamidian era is the second major reason why prison reforms during this period were mostly stillborn. One of the sultan's primary goals was to consolidate power within his own hands by weakening the power of the Ottoman bureaucracy. Abdülhamid II aspired to be an absolutist ruler similar to Louis XIV or Philip the Great. During the reigns of earlier sultans in the nineteenth century, the Sublime Porte effectively centralized power within itself and by 1876 was able to pressure the sultan into declaring the first Ottoman constitution. After Abdülhamid II came to power in 1876, he prorogued parliament and within two years suspended the constitution. The rest of his reign was spent denuding the Ottoman bureaucracy of any real administrative power in order to preserve and expand

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<sup>48</sup> See William L. Cleveland's *A History of the Modern Middle East* (Boulder, CO: Westview Press, 2000) p. 86 and Erik J. Zürcher's *Turkey: a Modern History* (London: I.B. Tauris, 2001), p. 88.



his own. In other words, the Ministry of the Interior and the commission that had been set up to enforce and monitor the sultan's reforms had very little effectual power.<sup>49</sup>

By the time the Young Turks came to power in 1908, Ottoman prisons were still in an awful state of disrepair and dilapidation. As part of Abdülhamid II's policy of bureaucratic divide and conquer, the administration of the empire's prisons was split among various competing departments, none of which had full authority or responsibility for prison administration or reform. It should be apparent that in 1879-80 when much of the legislation regarding penal reform was being drawn up (1879 Code of Criminal Procedure and the 1880 Regulation for the Administration of Prisons and Houses of Detention) it was being done disjointedly in an uncoordinated manner. In other words, the palace (Sultan Abdülhamid II) and the Sublime Porte (i.e. Ministry of Justice) were not working in tandem. In reality they were often working in counter distinction to each other as a result of Abdülhamid II's suspicions of the Ottoman bureaucracy and his desire to centralize power within his own hands. Therefore, little was actually accomplished. Notwithstanding this lack of tangible accomplishment, Abdülhamid II did strengthen the connection between the concepts of civilization and the rationalization of power with prison reform. Prisons began to be associated with efforts at social engineering and disciplining the population.

Abdülhamid II's reforms also demonstrate the state's growing penetration into the daily lives of its citizens, especially in terms of the state's responsibility to provide for the welfare of its subjects in the areas of health care and in the prevention of the spread of

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<sup>49</sup> Findly, pp. 221-90.

infectious disease. Despite Abdülhamid's use of religious symbols and rhetoric, absolutist style of rule, and inability to accomplish all of his reforms, his world view was completely centered on the modernization and rationalization of his state. His attempts at reform left an important legacy and foundation upon which the Young Turks and the CUP based their own reform programs. During the Second Constitutional Period, as imperial crises worsened and the authoritarian nature of the government increased, the CUP fully integrated prisons into its programs for nation-state construction, economic development, and social engineering. One of the driving forces behind this integration was CUP faith in and use of statistics in order to gain knowledge and power for the development and implementation of its reforms.

## **The Development and Use of Statistics in the Ottoman Empire**

Over the course of the nineteenth century the collection, analysis, and use of statistics in Europe developed into the standard means by which reified entities, such as 'states' attempted to study, order, and ultimately control large, complex, constructed, and reified phenomena, such as 'societies.' Statistics were at the heart of modern nation-state construction. Understanding mass phenomena, such as a nation's population, economy,

agriculture, trade, and even culture provided the necessary 'knowledge and power' to shape and control them for the 'common good.'<sup>50</sup>

The collection and use of statistics within the Ottoman Empire was not a new phenomenon by 1908. Throughout its existence, the Ottoman bureaucracy conducted extensive cadastral surveys and collected rudimentary population statistics in order to facilitate taxation of its Muslim and non-Muslim subjects. In the 1830s, the framework, scope, regularity, and efficiency of statistical collection changed as modernizing reforms began in earnest. The entire population increasingly became the object of these campaigns as the Ottoman bureaucracy needed to further harness 'social' power for taxation and military conscription purposes.

In the Ottoman Empire, statistics were

compiled for strictly practical purposes, such as tax levies, military conscription, the establishment of municipal boundaries, and the building of railroads and highways in the most useful locations. Thus they were required to be as accurate as possible. The population censuses and registration system, in fact, epitomized the Ottoman commitment to administrative reform and the establishment of a new, rational, systematic bureaucracy and ushered in the period of modernization.<sup>51</sup>

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<sup>50</sup> Theodore Porter, *The Rise of Statistical Thinking 1820-1900* (Princeton, NJ: Princeton University Press, 1986), pp. 3-39. Theodore Porter has written several books on the power, influence, use, and development of statistics, *Trust in Numbers* (Princeton: 1995) and *Karl Pearson* (Princeton: 2004). See also Michel Foucault's "Governmentality" in Graham Burchell, et al. (eds.), *The Foucault Effect: Studies in Governmentality: With two lectures by and an interview with Michel Foucault* (Chicago: Chicago University Press, 1991), chapter four.

<sup>51</sup> See Kemal Karpat's *Ottoman Population, 1830-1914* (Madison, WI: University of Wisconsin Press, 1985), p. ix.

The military became the driving force behind pressuring the Ottoman administration to keep updated, accurate, and more detailed population statistics in order to facilitate military conscription. In fact, the military even conducted its own population registration campaigns and took part in wider governmental projects, especially regarding the numbers and ages of Muslim males during the nineteenth and early twentieth centuries.<sup>52</sup>

The key focus in all Ottoman attempts to stave off European encroachment and to maintain territorial integrity was first through military reform and modernization. In fact, during the eighteenth and nineteenth centuries all states attempting to resist European economic and imperial encroachment gave military reform primacy over other modernizing transformations. The harnessing of social power through statistics and conscription was at the core of these military reforms.<sup>53</sup>

Ottoman administrators and bureaucrats increasingly recognized the importance of statistics to the empire and its transformation into a militarily and economically powerful modern state. Nevertheless, no centralized statistics bureau was established in the Ottoman Empire during the nineteenth century. Prior to the 1870s and the Hamidian era, the Sublime Porte attempted only one comprehensive population count in 1828/29-31. This survey, however, was not systematic, continuous, simultaneous, or comprehensive. In some areas officials counted heads, but in many cases they obtained their information from population registries published by the provincial bureaucracies in

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<sup>52</sup> Ibid., pp. 6-7.

<sup>53</sup> For treatment of European states regarding military reforms and nation-state formation, see Charles Tilly's edited volume, *The Formation of national States in Western Europe* (Princeton, NJ: Princeton University Press, 1975). For Egypt see Khaled Fahmy's *All the Pasha's Men: Mehmed Ali, his army, and the making of modern Egypt* (Cambridge: Cambridge University Press, 1997).

annual reports. Many of these statistics were old, out of date, and did not reflect migratory activity which occurred in the empire as a result of war and territorial loss.

One result of this ‘census’ was the establishment of the Office of Population Registers (*Ceride-i Nüfus Nezareti*) within the Ministry of Interior. In 1839, census responsibilities were still decentralized, but they continued to function until the Crimean War. This system appointed population officials on the sub-district (*kaza*) administrative level who were “required to register all births, deaths, and migrations and to report several times a year to the central office in Istanbul.”<sup>54</sup> During its time of operation (1839-1853), this system produced nearly 21,000 different population registers from all over the empire. Its comprehensive nature provides a wealth of knowledge concerning Ottoman population densities and composition.<sup>55</sup>

Notwithstanding the prolific nature of population statistics during the first half of the nineteenth century, they were neither comprehensive nor systematic. They were, however, conducted with chronological regularity. Provincial administrators published population statistics annually in ‘yearbooks’ known as *salnameler* and/or reported them directly to the central government in Istanbul. It was from these records that Ottoman and foreign officials usually compiled imperial population statistics.<sup>56</sup> These reports and publications varied in detail, accuracy, and reliability, depending on when and where they

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<sup>54</sup> Karpas, p. 20.

<sup>55</sup> Ibid.

<sup>56</sup> See Justin McCarthy, *Muslims and Minorities: the Population of Ottoman Anatolia and the End of the Empire* (New York: NYU Press, 1983), pp. 163-64 and Karpas, *Ottoman Population*, p. 18.

were collected. Often, accuracy was determined by the terrain and population types of the area or region in question. For example, if the province had a large population of pastoral-nomads and had very difficult terrain, the Ottoman provincial officials could only provide a rough estimate regarding the population count of that province. It must also be stressed that these population counts were not comprehensive. Very rarely did provincial officials count women, children, or the elderly. Usually the collection of statistics focused upon military age Muslim males and the total number of individuals in a given religious (*millet*) community, such as Armenian or Greek Orthodox.<sup>57</sup> In other words, the intent to collect more accurate and systematic population statistics was present, but the ability and infrastructure was not.

In 1874 the Council of State (*Şura-yı Devlet*) issued an order at the behest of Sultan Abdülaziz establishing a new population registration system and calling for a new census. The new structure was very elaborate in nature. The census, however, was never conducted for a number of reasons. In 1876, Sultan Abdülaziz was deposed and replaced by Sultan Abdülhamid II. Upon his ascension to the throne, Abdülhamid II proclaimed the first Ottoman Constitution, held elections, and the first Ottoman Parliament convened. The following year, war broke out between the Russian and Ottoman Empires and under that pretext the sultan prorogued parliament. In 1878, Abdülhamid II suspended the constitution. Notwithstanding these difficulties, the orders and regulations pertaining to

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<sup>57</sup> Ibid.

censuses established the ground work for an even more advanced system of population statistical collection.<sup>58</sup>

It appears that Abdülhamid II realized the benefit that a systematic and comprehensive census could provide his government. As early as 1879, the Ottoman Prime Minister Küçük Said Pasha recommended that a 'statistical system' be established in order to monitor bureaucratic activities and provide the palace and bureaucracy with accurate information upon which to base policy.<sup>59</sup> As soon as the political situation in the empire stabilized, Abdülhamid II ordered a new census so that the exact number of military age, Muslim males within the empire could be ascertained. He claimed this was necessary to reform his military and bring it up to the standards necessary to protect the empire. Building upon the regulations of 1874, Abdülhamid II ordered the Ministry of War to count all Muslim males and the Ministry of the Interior was charged with counting all non-Muslims within the empire.<sup>60</sup>

There are at least two possible reasons for this division of labor regarding the conduct of the census. First, military reform and more efficient taxation continued to be vital areas of concern for the sultan and the Ottoman bureaucracy, therefore, responsibility was divided among the respective governmental ministries—the Ministry of War and the Ministry of the Interior. Second, the Ministry of War was primarily concerned with Muslim males—the portion of the population from which military

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<sup>58</sup> Karpas, pp. 29-30.

<sup>59</sup> Findly, p. 285.

<sup>60</sup> Ibid., p. 30.

conscripts were drawn. Non-Muslims, on the other hand, were usually not required to serve in the military. In fact, the administration generally discouraged non-Muslims from fulfilling their military obligations, even though military service was required of all male Ottoman subjects. Instead, most non-Muslims were allowed to pay a special military exemption tax to avoid military duty. The Ministry of the Interior, therefore, was charged with counting non-Muslim communities for purposes of assessing the military exemption tax.

Sultan Abdülhamid II and the Council of State were convinced that in order to procure accurate population statistics other European and North American states must be consulted and their models followed. The Council of State declared that it was

the duty to mention before everything else that the interest of a government in the compilation of systematic population statistics does not stem solely from military considerations. To know the exact number of its own population is a great achievement in matters of order and regularity for a government interested in law, property safeguards, financial stability, and municipal order and security. The European States attach great and continuous care to the collection and distribution of information on the [entire] population. It is imperative, urgent, and essential for us to accomplish this important task [census and registration] in a perfect fashion.<sup>61</sup>

The Ottoman government, especially Abdülhamid II, was so keen to adopt modern statistical methods that the sultan approached the American ambassador to the Ottoman Empire, Ambassador Samuel Cox. In 1886, the Ottoman Sultan asked Ambassador Cox's opinion regarding the Ottoman census procedures being enacted

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<sup>61</sup> See BOA (I)/(ŞD)/3148, "Sicill-i Nüfus Nizamnamesi" of 8 Şaban 1298 (5 July 1881); all reports and correspondence concerning the census of 1881/82 are in one folio. See within that folio Council report no. 438 of 21 Cemaziyülevvel 1248 (21 April 1881). This quote is taken from Kemal Karpat's *Ottoman Population, 1830-1914*, p. 31.



during that time period. Cox, who had been chairman of the congressional census committee, played an instrumental role in the recently completed 1880 United States census. Eager to gain the ambassador's insights, the sultan requested his assistance and advice regarding the conduct of the Ottoman census.<sup>62</sup>

This new 'census,' which was conducted from 1881-1893, was very different from past population registration attempts in terms of the procedures used and the data collected. Every person in the empire was to be counted, described, and issued an identity card (*nüfus tezkeresi*) which the individual needed in order to conduct any official business, such as paying taxes, inheriting, selling and purchasing land, or obtaining travel documents. The registration information

was to include the respondent's name and nickname, father's name, the respondent's address, age, religion, occupation or profession, electoral status, any physical disabilities, and civil status. Non-Muslims were recorded in a separate register so as to facilitate the levying of the military exemption tax.<sup>63</sup>

To expedite the completion of this 'census' and continue the work of recording significant changes in the population, such as births, deaths, and migrations, Sultan Abdülhamid II established the Statistical Council of the Sublime Porte in 1891 and ordered it to "collect...information on everything that happened in the provinces...down

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<sup>62</sup> See Karpas, p. 31 and Samuel Cox's *Diversions of a Diplomat in Turkey* (New York: C.L. Webster and Co., 1887), pp. 37, 44.

<sup>63</sup> Karpas, p. 32.

to the smallest detail.”<sup>64</sup> Notwithstanding all of the regulations, procedures, advice, new requirements, expanded nature of the count, and additional information collected, the ‘census’ was still primarily for taxation and military conscription purposes and it took nearly twelve years to complete.

It is important to note that even though many scholars, such as Kemal Karpat and Stanford Shaw<sup>65</sup> refer to Ottoman attempts at counting the empire’s population as ‘censuses,’ none of these attempts were actual censuses. Justin McCarthy explains that

although certain detailed population records are commonly called “censuses,” there never was a true census taken in the Ottoman Empire. A census is by definition taken of all inhabitants of a country at one time and is usually far superior to a registration system, in which persons are registered at various times. The Ottoman Empire had a registration system... [which included] the so-called “censuses,” *salnames*, and archival population registration records. The censuses were actually statements of empire wide population that were drawn from registration records.<sup>66</sup>

Notwithstanding the technicalities of whether or not the Ottoman administration conducted a true ‘census,’ the Ottoman ‘census’ of 1881-83/1893 resulted in a clear picture of the empire’s diverse population.

By 1891 statistical information was collected on more topics and from a wider segment of the population than ever before. The information collected from these registration campaigns was utilized to facilitate modernization and reform programs

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<sup>64</sup> Findly, p. 285.

<sup>65</sup> See Stanford Shaw’s “The Ottoman Census System and Population, 1831-1914” *International Journal of Middle East Studies*, Vol. 9, no. 3 (Oct., 1978), pp. 325-38.

<sup>66</sup> See McCarthy’s *Muslims and Minorities*, pp. 163-64.

throughout the empire, including prisons. During the Hamidian Era, however, statistics still did not possess the same ideological importance to the Ottoman bureaucracy as they would during the Second Constitutional Period. The value of statistics to bureaucratic and administrative reform was recognized. Statistics, however, were not fully utilized. Much of this had to do with the leadership in charge of the reform programs, the denuded bureaucracy, financial restraints, and the absolutist rule of Sultan Abdülhamid II.

## **Conclusion**

Although penal reform during the Tanzimat and Hamidian eras was mainly cosmetic and ineffectually implemented, it did lay an important foundation upon which the Committee of Union and Progress built during the Second Constitutional Period. Concepts and ideologies regarding the connection between civilization, progress, nation-state construction, modernization, and penal reform were clearly formulated during the nineteenth century in the Ottoman Empire. In many cases these connections were forced upon Ottoman bureaucrats and sultans by Western diplomats and Great Power pressures. In fact, most of the penal reforms legislated and half-heartedly carried out were in an attempt by the Ottoman government to gain Great Power acceptance as an equal and to procure the abrogation of long standing capitulations.

This is not to say that all things the Ottoman Empire did during the Tanzimat and Hamidian eras was simple 'aping' of the West. Many in the Ottoman bureaucracy and

palace recognized the tangible benefits of modernizing reforms, especially regarding administrative centralization and more efficient taxation and military conscription. Ottoman bureaucrats and sultans, especially Sultan Abdülhamid II, began to understand the usefulness and power of statistics in achieving their imperial goals. Associated with the power of statistics, nineteenth-century Ottoman officials also understood the need for modern Western educational institutions and subsequently established and supported them within the environs of the empire. It was in these Western styled schools, primarily military academies, that many of the future key members of the Committee of Union and Progress received their training and organized themselves in opposition to Sultan Abdülhamid II.

The use and power of statistics became intimately connected with CUP ideology and pragmatism as a result of their Western educations. During the Second Constitutional Period, members of the CUP viewed statistics as a vital tool for raising the Ottoman Empire to the level of a modern, rational, scientific, civilized nation-state. It was also during this period that the connections between statistics, civilization, modernization, nation-state construction, and penal reform became fully intertwined. Nowhere were statistics utilized more than in the examination of prisons and in the formulation and implementation of penal reform programs during the Second Constitutional Period. Penal reforms and prisons became central aspects to the CUP's attempts at nation-state construction. So much so that prisons became 'laboratories of modernity' where many CUP reform programs were initiated and tested prior to their implementation at imperial levels.

## Chapter Two

### Ottoman Prisons: Laboratories of Modernity

On January 18, 1912 the Ottoman Prison Administration (*Hapishanler İdaresi*), which was attached to the Ministry of the Interior, commenced the most comprehensive prison statistical collection campaign in its history. In fact, the questionnaire asked for so much detailed information that it may have been the most comprehensive statistical campaign ever undertaken within the Ottoman Empire. Information was collected from every prison and house of detention within the empire from Yemen to the Balkans and from the Hijaz to Basra and Trabzon. The survey, unlike a census, not only asked for the number of prisoners, it also demanded information on whether those prisoners were sentenced or accused, their age, gender, marital and familial status, ethno-religious and national identity, literacy and education level, recidivism, socio-economic status, the crime committed, date of incarceration, and prison sentence.

The survey also requested information concerning deaths, sickness, contagious diseases and injuries. It asked which prisons had hospitals or medical clinics, what diseases were treated and surgical procedures performed. Information regarding prison budgets was requested, including projected and actual expenditures, employee salaries, repair and construction costs, and medical expenses. Details were collected regarding whether or not the prison had a factory or work house associated with it and its related

expenditures and profits. Particulars about these factories included the quantity and type of goods manufactured and how many prisoners were employed. In other words, this survey wanted every bit of information available on Ottoman prisons.<sup>1</sup>

The directive provided clear instructions on how the survey was to be conducted, when and how it was to be returned, and threatened those who failed to complete it properly or promptly with 'serious consequences.' All prisons were expected to confirm with the Ottoman Prison Administration that the copy of the survey had been received. The prison administration went so far as to send out periodic reminders that the survey was to be completed and returned by March of 1912.<sup>2</sup> Most of the prisons correctly completed and returned the surveys in a timely manner.<sup>3</sup>

Based on the collection and analysis of these statistics, the Ottoman Prison Administration issued its first comprehensive reform program for the empire's entire prison system on April 4, 1912.<sup>4</sup> This program called for the immediate improvement or 'renewal' (*hapishanelerin tecdidî*) of all prisons and houses of detention, based on a

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<sup>1</sup> BOA, DHMBHPSM 3/5.

<sup>2</sup> Ibid.

<sup>3</sup> See the catalogues for the Ministry of the Interior concerning the Ottoman Prison Administration-DHMBHPS and DHMBHPSM. There are four catalogues total. Contained within these catalogues are the returned and completed prison surveys. In total there are about forty six different entries that include these completed reports. The normal process of distribution and collection of the surveys went through the provincial centers (*vilayet merkezleri*) and independent district areas (*sancaklar*). In most instances the provincial centers collected all of the prison surveys and then forwarded them onto the Ottoman central government. After personally collecting and surveying all of the returned statistical forms found in the Prime Minister's Ottoman Archives (BOA), it appears that most of the surveys were completed in a timely and correct manner.

<sup>4</sup> BOA, DHMBHPS 145/31.

uniform architectural design.<sup>5</sup> Among other things, the directive announced new financial allocations for the comprehensive renovation and building project. The directive also revealed that there were nearly 28,000 prisoners in the Ottoman Empire's sprawling and decentralized penal system. According to the directive, the Ottoman prison population consisted of over 14,000 convicted felons, 6,000 petty criminals, and an additional 7,700 awaiting trial in early 1912.<sup>6</sup>

What is most significant about this document is not the number of prisoners in the empire,<sup>7</sup> the aggressive reform program, or even the substantial sums of money allocated for the project. What is most significant is how the Young Turks and more specifically the Committee of Union and Progress (CUP) justified and legitimated the program. According to the directive, the reform program was mandated in order to bring Ottoman prison conditions, particularly those related to health and hygiene, in conformity with the "laws of civilization" and was legitimated by referencing the knowledge and power that statistical information provided.<sup>8</sup> This document reveals a fundamental shift from the

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<sup>5</sup> Attempts at making a uniform architectural design had been ongoing since as early as March 1910 and various designs were drawn up. Please see BOA, DHMBHPS 142/38, 142/54, and 143/3 doc. 1.

<sup>6</sup> BOA, DHMBHPS 145/31.

<sup>7</sup> The actual percentage of the Ottoman population incarcerated in 1912 was only about (00.13%). The total Ottoman population is estimated at between eighteen and twenty-five million. There are various works on the population of the Ottoman Empire and this is a contested and debated topic. Some of the most prominent works are by two authors: Kemal Karpat and Justin McCarthy. Kemal Karpat, *Ottoman Population 1830-1914: Demographic and Social Characteristics* (London: University of Wisconsin Press, 1985), Justin McCarthy, *Muslims and Minorities: The Population of Ottoman Anatolia and the End of the Empire* (New York: New York University Press, 1983), *The Ottomans Peoples and the End of the Empire* (London: 2001), and *Population History of the Middle East and the Balkans* (Istanbul: Isis Press, 2002). As a result of this debate I am choosing twenty-one million as the mean.

nineteenth century in how penal practices, reforms and programs were formulated, justified, and legitimated.

The purpose of this chapter is to demonstrate that penal institutions, particularly prisons, became ‘laboratories of modernity’ for the Committee of Union and Progress’ nation-state construction program, which included administrative reforms and centralization, economic development, social engineering, and the achievement of “reason, progress, and civilization” within the Ottoman Empire during the Second Constitutional Period (1908-1918). In order to substantiate this argument, the importance of statistics to the CUP, both practically and ideologically, shall be demonstrated by describing how the Committee of Union and Progress utilized both statistics and their concept of civilization to formulate, facilitate, and legitimate their penal reform programs. Statistics became so intrinsic and vital to the development and implementation of CUP prison reforms and prison reforms became so extensive and comprehensive that for the CUP, the prison became an important laboratory for imperial modernization and regeneration. Within the walls of Ottoman prisons, the CUP tested reforms that would later be implemented on the imperial level, such as administrative centralization, the professionalization of government officials and employees, economic development and industrialization, and the improvement of public health and hygiene. The prison also became a site for dealing with questions regarding gender roles and childhood, the rehabilitation of prisoners through education and labor, and the implementation of

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<sup>8</sup> The exact phrase is *kuvaid-i mediniye*. This phrase can be interpreted as laws/principles or doctrines of civilization and can have a distinctive religious connotation, which in this context possesses interesting connotations. See BOA, DHMBHPS 145/31.



modern concepts of time and space. This process of making the prison a laboratory for imperial reform directly coincided with greater levels of authoritarian rule and imperial crisis resulting from the Balkan Wars and World War I.

## **Statistics and the CUP**

When the Young Turks deposed Sultan Abdülhamid II (1876-1909) and created the first of their two major penal institutions in August 1909, penal reform and the concepts of civilization, state formation, modernization, and social engineering were already part of the Ottoman political and intellectual landscape. These ideas and practices gradually gained currency among the Ottoman intelligentsia and administration over the course of the nineteenth century.<sup>9</sup> During the Second Constitutional Period, as imperial crisis worsened and the authoritarian nature of the government increased, the CUP fully integrated prisons into its programs for state construction, economic development, social engineering, and imperial regeneration. One of the driving forces behind this integration was CUP reliance upon and use of statistics in order to gain knowledge and power for the development and implementation of its reforms.

According to Michel Foucault's concept of 'governmentality,' sometime during the sixteenth century methods of governance began to change. The government's focus of rule shifted from the maintenance of sovereignty to harnessing the 'social' power of

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<sup>9</sup> See chapter one for a discussion of the development of Ottoman nation-state construction, the development of the use of statistics, and prison reform in the nineteenth century.

the 'population.' It is out of this shift in ruling strategy that the entities known today as 'state' and 'society' were first constructed and reified. The ruling apparatus or 'state' began to view the population or 'society,' as its greatest resource. In order to exploit this resource, new methods of governance were developed and applied. These new 'instrumentalities of governance' gradually evolved and spread throughout Europe and across the globe over the next several hundred years until they became quintessential state practice during the nineteenth century. The development and use of statistics were at the core of these new methods of governance.<sup>10</sup>

Over the course of the nineteenth century the collection, analysis, and use of statistics in Europe developed into the standard means by which entities, such as state bureaucracies and social science disciplines could study, make sense of, organize, predict, and ultimately control large, variable, complex phenomena, such as 'societies.' For social scientists and bureaucrats, statistics provided scientific legitimacy and authenticity to their conclusions. Society was not a passive entity to be shaped and molded with ease by bureaucratic directives and legislation, but a dynamic force of conflicting interests and actions. In fact, statisticians were among the first to fully personify and reify the idea of a 'society.' Statistics became the rational method of scientific analysis which facilitated the consolidation of power in the hands of another reified and personified entity known as the 'state.' The state viewed statistics as the chief

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<sup>10</sup> For a full description of Michel Foucault's argument concerning the development of these 'new instrumentalities of governance' please see, Michel Foucault's "Governmentality" in Graham Burchell, et al. (eds.), *The Foucault Effect: Studies in Governmentality: With two lectures by and an interview with Michel Foucault* (Chicago: University of Chicago Press, 1991), chapter four.

means of gaining knowledge and thus power in order to shape, control, and reform society. This, in turn, facilitated the creation of a modern unified nation-state. Understanding complex phenomena, such as a nation-state's population, economy, agriculture, trade, and even culture provided the means with which to shape and control them for the 'common good.'<sup>11</sup> Foucault even points out that the very word 'statistics' has 'state' at its root.<sup>12</sup>

The opposition movements to Sultan Abdülhamid II, specifically the Committee of Union and Progress, recognized the potential of statistics as a source of knowledge and power. Unlike the bureaucrats of the Hamidian era, the Young Turks, particularly members of the CUP, possessed the same affinity for statistical information as their European counterparts. After all, central CUP members, such as Enver Pasha, Talat Pasha, and Cemal Pasha received western style educations based on the French system in modern schools and institutes established in the Ottoman Empire by Abdülhamid II. Modern scientific principles, including the use and benefit of statistics were taught to these bureaucrats and reformers as part of their education. Abdülhamid II established these schools and institutes in order to produce a modern educated cadre to lead his reform and modernizing programs. Ironically, his most vehement opposition arose from this cadre.

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<sup>11</sup> Theodore Porter, *The Rise of Statistical Thinking 1820-1900* (Princeton, NJ: Princeton University Press, 1986), pp. 3-39. Theodore Porter has written several books on the power, influence, use, and development of statistics, *Trust in Numbers* (Princeton, NJ: Princeton University Press, 1995) and *Karl Pearson* (Princeton, NJ: Princeton University Press, 2004).

<sup>12</sup> Foucault, "Governmentality."

Comtian Positivism was at the core of CUP ideology. According to Comte, societies evolved through religious, philosophical, and finally scientific stages. Indeed, Comte argued that society should be guided by an elite class of technocrats, known as *savant*, to ensure that society was reformed according to the scientific principles upon which a modern, civilized, rational society should be based.<sup>13</sup> For the Positivist members of the Committee of Union and Progress, statistics represented a major scientific principle as well as the tool by which a population could be ‘totalized’ and ‘individuated’ to create their ideal nation-state.<sup>14</sup> They also understood the potential statistics possessed as a source of naming and identifying particular elements in a population. Their theoretical education regarding statistics received practical application during the 1903 census campaign in the Ottoman administrative region of Macedonia.

In addition to taxation and military purposes, from time to time it was necessary to count the population in certain areas of the Ottoman Empire because of European pressure regarding local communities’ nationalist aspirations.<sup>15</sup> One such population count was the Macedonian Census of 1903-05.<sup>16</sup> In 1872 the Ottoman administration established the (Bulgarian-dominated) Exarchate and recognized it as a separate religious community (*millet*) from the (Greek-dominated) Ecumenical Patriarchate. This caused

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<sup>13</sup> Şükrü Hanioğlu, *The Young Turks in Opposition* (Oxford: Oxford University Press, 1995) and *Preparation for a Revolution: The Young Turks, 1902-1908* (Oxford: Oxford University Press, 2001). Also see James Gelvin, *The Modern Middle East, A History* (Oxford: Oxford University Press, 2005), pp. 129-30.

<sup>14</sup> See Foucault’s “Governmentality.”

<sup>15</sup> Karpas, pp. 24 and 35.

<sup>16</sup> This action would actually qualify as a true ‘census’ according to McCarthy’s definition, but it was obviously not on an imperial level.

intense nationalist struggles between the different orthodox communities in the Balkans concerning which 'religious/nationalist' community the population belonged, especially among the Bulgarian, Serb, and Greek communities. Each of the groups struggled, especially the different clergies, for potential control of the religious community and perhaps the future nation. If a certain group within the Macedonian population decided to be part of the Ecumenical Patriarchate then it was choosing to be labeled 'Greek,' even if it spoke Bulgarian and vice versa.<sup>17</sup> The 1903 census exacerbated this explosive situation of competing nationalist movements identified by religious affiliation.

The conditions and situation surrounding the conduct of the Macedonian census has been described as one of intimidation and coercion by local religious authorities, nationalist ideologues, thugs, and government officials on the local populations to identify themselves with one party or the other, either Greek Orthodox or Bulgarian Exarchate. The census became a site for naming and identifying elements of the population not only for taxation and military purposes, but also for the population's potential nationalist proclivities based on religious affiliation. Not only was the Ottoman state trying to impose its own classification upon its population, but the people were actively identifying and naming themselves.<sup>18</sup> What took place in Macedonia

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<sup>17</sup> Karpat, p. 35 and İpek K. Yosmaoğlu's "Counting Bodies, Shaping Souls: The 1903 Census and National Identity in Ottoman Macedonia" *International Journal of Middle East Studies*, 38 (2006), pp. 55-77. See p. 60 of Yosmaoğlu's article for an excellent description of the schism between the Ecumenical Patriarchate and Exarchate. The article is a fascinating study of the power of naming and how it is not only the state that names, but the populations themselves that fight for, adopt, and reject identities and shape themselves in many instances.

<sup>18</sup> See Yosmaoğlu's entire article.

demonstrates the power of statistics, especially a census, when it comes to what Ian Hacking refers to as “nominalism” or the act of making people up.<sup>19</sup>

During the first decade of the twentieth century, Macedonia was the central stronghold of the Committee of Union and Progress. It was also the staging ground for the Young Turk Revolution of 1908. Young Turks loyal to the CUP were entrenched in Macedonia’s administrative and military hierarchy.<sup>20</sup> In fact, the individual who directly created, led, and managed the 1903 census as Inspector General of Rumeli was Hüseyin Hilmi Pasha. Hilmi Pasha was very popular with the Young Turks and an active CUP supporter. After the Young Turk Revolution of 1908, he was the first Minister of the Interior (1908-09). He also served as Grand Vezir from 1909-1910, Minister of Justice in 1912, and Ambassador to Vienna during World War I (1914-1918). After the war’s conclusion he was not allowed to return to Istanbul by the Triple Entente because of his CUP affiliations and died in Vienna in 1923.<sup>21</sup>

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<sup>19</sup> Ian Hacking, *Historical Ontology* (Cambridge, MA: Harvard University Press, 2002), p. 100. One important problem with Hacking’s view of ‘nominalism’ or making people up is that he reifies the power of the state and makes the individual the passive recipient of state nomenclature. This can be explained in part by the subjects he studied—the mentally ill. That being said what Yosmaoğlu does is demonstrate the struggle between the ‘state’ and individuals and groups within the population and how the state attempts to name, but is resisted and thwarted in many cases by those who want the power to name themselves. For other works regarding the naming power of statistics and censuses see Arjun Appadurai, “Number in the Colonial Imagination” in Carol A Breckenridge and Peter van der Veer (eds.), *Orientalist and the Post Colonial Predicament: Perspectives on South Asia* (Philadelphia: University of Pennsylvania Press, 1993), pp. 314-39; Bernard S. Cohen, “The Census, Social Structure and Objectification in South Asia” in *An Anthropologist among the Historians and other Essays* (Oxford: Oxford University Press, 1987), pp. 224-54; and Sumit Guha, “The Politics of Identity and Enumeration in India C. 1600-1990,” *Society for Comparative Study of Society and History*, 20 (2003), pp. 148-67.

<sup>20</sup> For the classic description of the birth and entrenchment of the Young Turk movement and the Committee of Union and Progress in Macedonia, the Young Turk Revolution of 1908, and the political developments of the Young Turks and the CUP until 1914 see Feroz Ahmat’s *The Young Turks: The Committee of Union and Progress in Turkish Politics, 1908-1914* (Oxford: Clarendon Press, 1969).

Hüseyin Hilmi Pasha was well aware of the explosive potential of the 1903 census regarding nationalism, race, ethnicity, and religious identification among the Macedonian population. For this reason and perhaps others, he debated whether or not to use the most benign population classification system available in the census questionnaire, namely the generic categories of Muslim, Jew, and Christian. He abandoned this idea, however, apparently because those categories would have undermined the stipulations of the Mürzteg Program. This program was imposed by the European powers on the Ottomans in 1902, calling for “administrative reorganization according to national principles” within Macedonia. According to the European drafters of the Mürzteg Program, “national principles” meant nationalist identity based on specific religious and linguistic characteristics.<sup>22</sup> If utilized, those generic categories may have prevented much of the violence that occurred when specific religious affiliations were delineated in the census questionnaire itself.

The Young Turks and later the CUP never undertook a full scale imperial census during the Second Constitutional Period; constant warfare and internal crisis made this impossible from 1908-1918. Nevertheless, members of the Committee of Union and Progress understood the power of statistics regarding nation-state construction as a result of their Western style educations and their experience with the 1903 Macedonian Census. The census was conducted by CUP supporters within their primary stronghold. European meddling and Christian nationalist activities galvanized Macedonian Muslim support for

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<sup>21</sup> Ibid., p.172.

<sup>22</sup> Yosmaoğlu, pp. 64-65 and 59-62.

the 1908 Young Turk Revolution led by the CUP.<sup>23</sup> The power of population statistics and its potential for causing dissension and division was clear to the CUP.

In this context, it should not be surprising that for the CUP, statistics were the key to knowledge and power for all of their reform programs. Earlier Ottoman attempts at statistical collection prior to the 1903 Macedonian Census were myopic in comparison. Such earlier collections were looking simply for more effective ways of taxation, conscription, or disease prevention with a unitary focus on addressing immediate imperial concerns of survival in the face of internal unrest and European economic and imperial encroachment.<sup>24</sup> Although such campaigns did see the population as an important commodity and imperial resource, it was not until the CUP that the population was viewed as the state's most vital resource and one that must be extensively tabulated.

The CUP first carried out this extensive tabulation within the walls of the empire's prisons. Its use of statistics in developing and implementing prison reform transformed Ottoman prisons into a laboratory for nation-state construction, particularly beginning in 1911. This marks a distinct shift in the use of statistics from the Hamidian era to the Second Constitutional Period. Nowhere in the Ottoman Empire was statistics more extensively collected or utilized than in the empire's prisons. In addition to their practical and pragmatic benefits, the use and power of statistics were important to CUP

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<sup>23</sup> Şükrü Hanioğlu, *The Preparation for a Revolution: The Young Turks, 1902-1908*, pp. 232-33.

<sup>24</sup> For a more complete discussion of the development of statistics in the Ottoman Empire during the nineteenth-century, see chapter one.



ideology, because they were seen as a means of raising the Ottoman Empire up to the level of a modern, rational, scientific, civilized nation-state.

### **Statistics and CUP Prison Reform: Creating an Imperial Laboratory**

The assertion that the prison became the CUP's laboratory for nation building and state transformation is not based on a lone statistical survey, no matter how extensive it may have been and even though this same process was carried out annually throughout the Second Constitutional Period. The entire process of Young Turk penal reform demonstrates this intent. As social crisis and general upheaval intensified during the Second Constitutional Period, so did CUP attempts at social control and engineering through the creation of increasingly more powerful penal institutions. Statistics continued to be employed as an important source of knowledge and power in order to shape society for the nation's 'common good.'

The Ottoman Empire in the late nineteenth and early twentieth centuries was anything but peaceful, prosperous, and stable. This time period was one of great upheaval, crisis, and change on all fronts—domestic, diplomatic, social, administrative, political, economic, and cultural. During the nineteenth and twentieth centuries, all facets of Ottoman state and society underwent transformation as a result of internal unrest and separatist movements, state initiated and directed modernization programs, European encroachment, and integration into the world economy. In the few years leading up to

the 1908 Young Turk Revolution there were waves of strikes, popular protests, and riots throughout the empire as a result of dire economic hardships, crop failures, and new taxes. Many of these protest actions were planned, instigated, and fanned by CUP revolutionaries exiled and strategically placed around the empire.<sup>25</sup>

During 1908 and 1909, the Ottoman ruling apparatus and society experienced tremendous upheaval as a result of a coup and counter coup, the reinstatement of the Constitution of 1876, the introduction of parliamentary rule, an initial relaxation of press censorship, a general liberalization of politics, and extensive bureaucratic and administrative reform. With the ascendance to power of the Young Turks, there was an explosion in political activism, demonstrations, and in the proliferation newspapers and periodicals throughout the empire. Various nationalist identities and ideologies were emerging and competing for the hearts and minds of portions of the Ottoman population.<sup>26</sup> Between 1908 and 1913, vast stretches of Ottoman territory were lost,

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<sup>25</sup> For more details on the unrest across the empire see Donald Quataert's *Social Disintegration and Popular Resistance in the Ottoman Empire, 1881-1908: Reactions to European Economic Penetration* (New York: New York University Press, 1983), "The Young Turk Revolution: Old and New Approaches," *Bulletin*, Middle East Studies Association, July 1979 and "The Economic Climate of the 'Young Turk Revolution' of 1908," *Journal of Modern History*, September, 1979. See also Aykut Kansu's *The Revolution of 1908 in Turkey* (Leiden: Brill, 1997), pp. 29-72.

<sup>26</sup> Concerning the rise of the Young Turks to power and their reign see M. Naim Turfan's *The Rise of the Young Turks: Politics, the Military and Ottoman Collapse* (London: I.B. Tauris, 2000). For a detailed account of the Young Turk revolution in 1908, see Aykut Kansu's *The Revolution of 1908 in Turkey* (Leiden: E.J. Brill, 1997).

Concerning the economic crises and their effects on Ottoman society prior to 1908, see Donald Quataert's *Social Disintegration and Popular Resistance in the Ottoman Empire, 1881-1908: Reactions to European Economic Penetration* (New York: New York University Press, 1983).

Concerning the political climate, administrative changes and the expansion of the Ottoman public sphere during Young Turk rule see Feroz Ahmed's *The Young Turks: The Committee of Union and progress in Turkish Politics 1908-1914* (Oxford: Clarendon Press, 1969), Aykut Kansu's *Politics in Post-Revolutionary Turkey, 1908-1913* (Leiden: E.J. Brill, 2000), James Gelvin's "'Pious' Religious Scholars, 'Overly-Europeanized' Falsifiers, and the Debate about the 'Woman Question' in Early Twentieth-Century

including Bulgaria, Crete, Libya, the Dodecanese Islands, and all of the Balkans, except for the eastern portion of *Rumeli*, which constitutes the European portion of today's Republic of Turkey. The Ottoman world was literally "turned upside down."<sup>27</sup>

This context of social and political crises helps illuminate the role penal policy and prison reform played in Young Turk and especially CUP pragmatism and ideology. Penal institutions played a central role in CUP and Young Turk attempts to maintain power and to impose order and discipline upon the Ottoman population during a time of great chaos. As early as 1909, the CUP clearly linked penal reform and prisons, in concrete terms, to social control and modern state formation. Penal reform also began to play a much larger role in CUP ideology to bring civilization, science, reason, progress, economic development, administrative efficiency, and prosperity to the empire.

Shortly after coming to power, the Young Turks and the CUP took drastic action to curb and crush strikes and political protests, even though they had originally instigated and promoted these activities leading up to the 1908 Revolution. They brutally crushed

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Damascus" (Forthcoming, 2002), and Hasan Kayali's *Arabs and Young Turks: Ottomanism, Arabism, and Islamism in the Ottoman Empire, 1908-1918* (Los Angeles: University of California Press, 1997).

Concerning the proliferation of newsprint in Damascus and Istanbul during the Young Turk period see Gelvin's "Pious Religious Scholars," Kayali, pp. 54-55, and Palmira Brummett *Image and Imperialism in the Ottoman Revolutionary Press, 1908-1911* (Albany, NY: State University of New York Press, 2000), 470 p., and Palmira Brummett, "Dogs, Women, Cholera, and Other Menaces in the Streets: Cartoon Satire in the Ottoman Revolutionary Press, 1908-11," in *IJMES*, 27/4 (Nov., 1995), pp. 433-60.

Concerning the development and spread of nationalism see Kayali and Masami Arai's *Turkish Nationalism in the Young Turk Era* (Leiden: E.J. Brill, 1992).

Regarding the development of Young Turk ideology see Ernest Edmondson Ramsaur's *The Young Turks: Prelude to the Revolution of 1908* (New York: Russell & Russell, 1957), and Şükrü Hanioglu's, *The Young Turks in Opposition* (Oxford: Oxford University Press, 1995) and *Preparation for a Revolution: The Young Turks, 1902-1908* (Oxford: Oxford University Press, 2001).

<sup>27</sup> This phrase is taken from the title of Christopher Hill's book, *The World Turned Upside Down: Radical Ideas During the English Revolution* (New York: Viking Press, 1972) in which he describes the utter explosion of ideas and movements, social and cultural transformations, and political liberalization that occurred during the English Revolution.

these protests, strikes, and demonstrations and passed legislation outlawing such activities.<sup>28</sup> The inner circle of the CUP possessed a healthy distrust of the crowd. They were followers of Gustav LeBon's (1841-1931) elitist and racist works about crowd psychology and the dangers of the masses. Le Bon's *Psychologie des Foules* (*The Crowd: a Study of the Popular Mind*), published in 1896, was widely read by CUP members and constituted a foundation for their political ideology as an elite group leading the nation to reason, science, progress, and civilization. Le Bon was a Comtian Postivist and his views originated from the French Third Republic, whose elites believed that the French Revolution had gone terribly wrong as a result of the excesses of the masses during the Jacobin Reign of Terror. In addition to Young Turk and CUP members, Le Bon's ideas also found currency among other authoritarian and fascist leaders during the first part of the twentieth century.<sup>29</sup>

The Young Turks, and especially the leadership of the CUP, attempted to promote themselves as inheritors of the ideals of the French Revolution along the lines of the Third Republic. They continuously portrayed Sultan Abdülhamid II as a corrupt despot similar to Louis XVI of France and labeled the sultan's administration the "*ancien régime*." The inner circle of the CUP consisted mainly of low-level bureaucrats and junior military officers who had been educated in Europe or had received European-style educations. They were frustrated with the sultan's nepotistic and sycophantic style of

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<sup>28</sup> Kansu, *The Revolution of 1908*, pp. 24-71.

<sup>29</sup> See Hanioglu's *The Young Turks in Opposition*, pp. 16-26. See also Gustav Le Bon's *The Psychology of the Crowd*, 1895.

rule, in which individuals were promoted based on loyalty and obsequiousness rather than merit. They claimed to possess the training and expertise to save the Ottoman Empire from dismemberment and collapse. In order to do this, the Ottoman Empire had to be raised to the level of a scientific society. To Le Bon, the Third Republic, and the CUP, the masses were a powerful yet fickle force that needed to be controlled, dominated, and directed for the good of the nation. It was not until after the 1909 counter coup that the Young Turks and the CUP saw the real threat of the masses and established a true penal institution along modern state lines in order to subdue, monitor, and control the masses.

In August of 1909, just four months after a failed counter coup by supporters of Sultan Abdülhamid II, the Young Turks established a new penal institution called the Directorate of Public Security (*Emniyet-i Umumiye Müdiriyeti*). This new directorate functioned as a harbinger of Young Turk and CUP attempts to consolidate power and control the population. For example, one of the directorate's functions was to monitor and control vagrants, vagabonds, and the unemployed.<sup>30</sup> It is also known that this new directorate replaced the Ministry of Police (*Zabtiye Nezareti*), was attached to the Ministry of the Interior (*Dahiliye Nezareti*), and received a separate and considerable

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<sup>30</sup> See Ferdan Ergut's "Policing the Poor in the Late Ottoman Empire" in *Middle Eastern Studies*, vol.38 (2002), 149-64. Also see Ergut's "The State and Civil Rights in the Late Ottoman Empire" in *Journal of Mediterranean Studies*, 13 (2003), p.53-74. Concerning the formation and actions of the police in the late Ottoman Empire and the early days of the Republic of Turkey see Ferdan Ergut, "State and Social Control: Police in the late Ottoman Empire and the early Republican Turkey, 1839-1939," Thesis-Ph.D (New School of Social Research, 1999), 443p. and *Modern Devlet ve Polis: Osmanlı'dan Cumhuriyet'e Toplumsal Denetimin Diyalektiği* (İstanbul: İltişim, 2004), 400 p.

budget.<sup>31</sup> As early as 1912, the Directorate of Public Security was collecting and reporting to the Interior Ministry detailed statistics regarding crime, riots, strikes, and general political issues from every population center within the empire.<sup>32</sup>

Prison reform during the Second Constitutional Period started slowly, but the intent to exploit penal institutions for the purpose of social engineering was there from the start. Between 1909 and 1911, the Young Turks, led by the CUP, focused on developing a central penal policy. In order to develop their programs, prison inspections were conducted from Yemen to the Balkans. All major prison construction and repair projects were suspended until a general prison architectural design could be developed. In formulating their policy, the Young Turks appear to have been following the 1880 “Regulation for Prisons and Houses of Detention” and were intent on implementing article one of that regulation, which mandated a central prison and jail in every province (*vilayet*), provincial subdivision (*liva/sancak*), and district or township (*kaza*) throughout the empire. Even though this regulation was never officially adopted by the Ottoman government prior to the Second Constitutional Period, the CUP viewed it as a progressive document. The CUP utilized this document as a template for its prison reforms and attempted to implement the regulation on an unprecedented scale, especially in issues and areas associated with order, discipline, administration, and health and hygiene.<sup>33</sup> It was

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<sup>31</sup> See Findley, *Bureaucratic Reform in the Ottoman Empire*, chapter seven, “Once More Toward Redefinition of the Political Balance” pp. 291-337.

<sup>32</sup> The reports and statistical data collected and submitted by the Directorate of Public Security are found in DHEUMTHR of the Ottoman Imperial Archives in Istanbul.

not until 24 April 1917 that the CUP and Directorate of Prisons officially adopted the “1880 Regulation for Prisons and Houses of Detention,” republished it, and sent it to every prison in the empire.<sup>34</sup>

While these initial inspections were being conducted, the Young Turks were raising the funds necessary to implement their penal reform program. They raised this money in several ways. After deposing Abdülhamid II, the Young Turks effectively wrested power from the Hamidian bureaucracy centered at the imperial palace, confiscated Abdülhamid II’s property and auctioned it off, reformed the Ministry of Finance, and attempted to create a more accurate, transparent, and balanced budget.<sup>35</sup> Various schemes were devised to raise funds for prison reform. These included establishing a number of labor prisons in major population centers of the empire, such as Istanbul, Damascus, Ankara, Beirut, and Baghdad. These labor prisons engaged in industrial production and their profits went to the directorate.<sup>36</sup> The prison administration

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<sup>33</sup> BOA, DHMBHPS 142/38, 142/54, and 143/3. The “1880 Regulation for Prisons and Houses of Detention” shall be discussed in greater detail in chapter five.

<sup>34</sup> See BOA, DHMBHPS 160/78 and DHMBHPSM 31/82. There are several drafts of a new comprehensive prison directive for the regulation and administration of prisons dating to 1917 in the Prime Minister’s Ottoman Archives (BOA). Regarding these drafts see BOA, DHMBHPS 74/66, 158/8, 158/27, 159/41, 160/78 and DHMBHPSM 31/82. The guidelines contained in the 1880 ‘Regulations for Prisons and Houses of Detention’ and its implementation by the CUP regarding administrative practice and reform in Ottoman prisons shall be discussed more fully in chapter five.

<sup>35</sup> Findly, p. 333.

<sup>36</sup> For basic information on the establishment of labor prisons and the corresponding archival references see Yasemin Gönen’s “Osmanlı İmparatorluğunda Hapishaneleri İyileştirme Girişimi, 1917 yılı” in Emine Gürsoy (ed.) *Hapishane Kitabı* (Istanbul: Kitabevi, 2005), pp. 173-83.

proposed that old prison facilities and lands be sold (in their dilapidated condition) to finance new prison building projects based upon a unified architectural design.<sup>37</sup>

In addition to these inspections and efforts to raise the necessary funds to commence such an aggressive prison reform program, the CUP and Ottoman Parliament passed extensive legislation related to penal policy and practice. On 4 June 1911, the Ottoman Parliament passed the most extensive and sweeping reforms to the Imperial Ottoman Penal Code of 1858 (IOPC) that had ever been enacted. These reforms were aimed at centralizing and expanding the Ottoman bureaucracy's authority and power over the adjudication of criminal matters at the expense of Islamic law and courts. New crimes were enacted; punishments were standardized and rationalized; state authority and monopoly over the use of force was expanded; the state's ability to intervene in familial and personal matters was increased; and definitions regarding criminal culpability were augmented, particularly in relation to minors.<sup>38</sup> There are deep and important connections between these revisions made on 4 June 1911 to the 1858 IOPC and the prison reforms initiated and implemented in the fall of 1911 and the first half of 1912, especially regarding the 1912 Ottoman Prison Survey.<sup>39</sup>

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<sup>37</sup> See BOA, DHMBHPSM 2/117 and DHMBHPS 35/4.

<sup>38</sup> For all of the revisions made to the 1858 Imperial Ottoman Penal Code on 4 June 1911 see John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code: a Translation from the Turkish Text with latest Additions and Amendments together with Annotations and Explanatory Comments upon the Text and containing an Appendix dealing with the Special Amendments in Force in Cyprus and the Judicial Decisions of the Cyprus Court* (London: Oxford University Press, 1913). For a detailed discussion of these 1911 IOPC reforms see chapters 3 and 6.

<sup>39</sup> The correlated efforts between the June 1911 revisions to the 1858 Imperial Ottoman Penal Code and the Ottoman Prison Survey are discussed in great detail in chapter three.



Sometime in the early fall of 1911, the Ministry of the Interior created the Prison Administration (*Hapishaneler İdaresi*). Except for military prisons, this office, for the first time, streamlined and consolidated the ad hoc and decentralized Ottoman system of over one thousand different prisons and houses of detention into one bureaucratic administration under the jurisdiction of the Ministry of the Interior.<sup>40</sup> Having collected enough preliminary information, substantially augmented the IOPC, created a centralized prison administration, and having raised the necessary funds, the Ministry of the Interior and the Ottoman Prison Administration launched the first comprehensive Ottoman prison statistical collection campaign in January 1912.

The 1912 campaign distributed the exact same questionnaire to every prison and house of detention within the empire. The organization of the questionnaire is significant. The questions asked reveal important assumptions held by the CUP regarding how society should be organized and the system of order the CUP wanted to place upon it in terms of class, ethnicity, nationality, and religion. The questionnaire also reveals important assumptions regarding which groups and individuals constituted the ‘nation’ and which ones lay outside it.

For example, the questionnaire did not request the numbers of Turks, Arabs, or Kurds among the prison population. The issue of nationalism that would later be associated with these groups was not a concern for the CUP in this context. The CUP

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<sup>40</sup> See DHMBHPSM 8/3 doc. 10/b dated 5 October 1911. The opening of this directive on collecting the salaries, appointment dates, titles, and responsibilities of all prison employees states that the General Administration for Prisons had been recently formed. The date the document was issued is 5 October 1911 or Hicri 12 Şeval 1329, this indicates that this office was opened sometime in the early fall 1911, most likely in September.

was content to know the number of Muslims without differentiating between Shi'ites and Sunnis. Likewise, the CUP requested the number of Jews (*Musevi*), Catholic (*Katolik*) and Protestant (*Protestan*) Christians, making a distinction between Greek Orthodox (*Rum*), Bulgarian Exarchate (*Bulgar*), and Armenian (*Ermeni*) Christians. However, Druzes, Alevis, Assyrians, and Maronites were not specifically numbered, but fell into a catchall category for 'Other Ottoman Communities.' The questionnaire also solicited the numbers of specific foreign nationals in their prisons, such as Germans, French, British, Austrian, Greek (*Yunanlı*), and Iranians (*İranlı*). There were also catchall categories for other Ottoman *millet* or ethno-religious communities and other nationalities. It is significant that the CUP was still categorizing Ottoman subjects according to long-standing Ottoman classifications based on religious affiliation, such as Muslims, Jews, Armenians, and Greeks (*Rum* not *Yunanlı*) as late as 1912. It is even more significant that this questionnaire, with its same categories, continued to be used to collect the empire's prison statistics on an annual basis till the end of World War I.<sup>41</sup>

These categorizations offer important insights into CUP concepts of nationalist identity based on religion, ethnicity, and language and may even help explicate supposed CUP proclivities toward Turkish nationalism and how this fits into their vision for the Ottoman Empire. CUP members were elitists, but not separatists. They were still actively promoting official Ottoman nationalism (*Osmanlılık*) which was supposed to transcend linguistic, ethnic, religious, and communal differences although it became progressively Muslim oriented over the last century of the empire's existence. These

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<sup>41</sup> BOA, DHMBHPSM 8/3 doc. 11 & 13.

categories of identification also reveal that the CUP was highly suspicious of certain groups, such as Armenians, Greeks, and Bulgarians, from which some of their populations had exhibited separatist or rebellious tendencies. Chapter four discusses in greater detail the 1912 prison census' use and meaning of the word *millet*, the different categories the CUP utilized in order to classify the prison population, and how this helps elucidate CUP ideology regarding ethnicity, communal identity, and nationalism and its development within the Ottoman Empire during the Second Constitutional Period.

As part of the census, prison officials also tabulated information regarding the prisoners' socio-economic status and their crimes. These categories included whether the prisoner was a government official, teacher, physician, merchant, money changer/banker, land owner, artisan/guildsman, farmer, laborer, ship's captain or crewmember, a servant, or unemployed. These are the select few about which the Ottoman Prison Administration gathered information.<sup>42</sup>

It is also curious to recount the specific crimes in which the CUP was most interested. Out of the hundreds of crimes included in the 1810 French Penal Code adopted by the Ottoman Empire in 1858, only thirty-three crimes were listed. These included nineteen 'misdemeanors' and fourteen 'felonies' dealing primarily with issues regarding property, life, injury, social order, and honor. Crimes dealing with sodomy, the kidnapping of 'virgins,' and rape were also specifically included.<sup>43</sup>

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

The level and minutia of information collected and tabulated by this questionnaire was unprecedented. It fits the exact description of what Michel Foucault called the '*tableaux vivants*.' According to Foucault, this table is "the first of the great operations of discipline...which transforms the confused, useless or dangerous multitudes into ordered multiplicities."<sup>44</sup> The organizing of seemingly disparate bits of information about prison populations from over a thousand prisons across a vast empire into a rational system made this table/questionnaire "both a technique of power and a procedure of knowledge."<sup>45</sup> The table was arranged in such a way as to link the singular and multiple together in a comprehensible form, which Foucault claimed simultaneously provided knowledge of the individual and the group. This concurrently broke the entire Ottoman prison population into comprehensible parts and totalized it into an intelligible entity that Ottoman authorities could control and discipline.

The knowledge and power gained by this questionnaire and others like it not only shaped CUP penal reform, it also fashioned the prison into a premier institution for social control, social engineering, progress, and nation-state construction within the Ottoman Empire. The prison became a microcosm and testing ground for the CUP's larger plans to shape and mold the Ottoman population and administration into a modern nation-state. In other words, the Ottoman prison system became a laboratory for the CUP's program to socially engineer the Ottoman Empire and raise it up to the level of a scientific society.

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<sup>44</sup> Michel Foucault's *Discipline and Punish: the Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon Books, 1995), pp. 148-49.

<sup>45</sup> *Ibid.*, p. 148.

The reforms and programs initiated and implemented in the prisons, such as educational, administrative, organizational, health and hygiene, labor, and economic development were to be applied to the entire empire.

In addition to the commencement of an annual prison survey, in 1912 the Ottoman Prison Administration initiated another annual statistical campaign concerning prison employees. This annual campaign collected detailed information on prison employees, including their names, titles, numbers, responsibilities, salaries, and dates of service.<sup>46</sup> Combined together, these two campaigns provide the most detailed picture of the Ottoman prison population and administration ever compiled. After completing these surveys and processing the results, the CUP finally initiated its first comprehensive prison reform programs “to bring Ottoman prison standards and health and hygiene conditions in line with the Laws of Civilization.”<sup>47</sup> The various reforms were announced and commenced between January and April of 1912.

One of the first reforms required every prison to have a courtyard for inmates to exercise. Another edict demanded better qualified prison employees who were literate and versed in penal laws and practices. Yet another mandated the rehabilitation of prisoners through education and work. In addition to these important reforms and as a result of the prison census of 1912 every prison within the Ottoman Empire was either to be renovated or rebuilt in accordance with modern health and hygiene standards. After completing all of the research and initiating such extensive reforms in early 1912, it is

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<sup>46</sup> Examples of these records are BOA, DHMBHPSM 2/49, 2/75, 2/78, 2/108, 2/112, 2/113, and 2/114.

<sup>47</sup> BOA, DHMBHPS 145/31

surprising that the Ottoman government suddenly suspended all of these reforms in the final third of 1912. It has been argued that this reform campaign was discontinued because of the outbreak of the first Balkan War, but this is only partially correct.<sup>48</sup>

In the summer of 1912, the Committee of Union and Progress won an outright majority in the Ottoman Parliament and gained sole control of the government. Notwithstanding this major victory the CUP quickly found itself expelled from power. The CUP was accused of using its secret police/shock-troops, the *Teşkilat-i Mahsusa*, to intimidate, spy upon, and even assassinate political rivals and unlawfully influence the elections. The *Entente Liberal*, the main parliamentary opposition party, was instrumental in bringing down the CUP government. In opposition to the CUP, the *Entente Liberal* advocated administrative decentralization for Arab provinces, economic liberalization and free trade, and Great Power intervention to solve the empire's economic, administrative, and social problems.<sup>49</sup> It is important to note that until the summer of 1912 the CUP had never held direct political power, but had remained a secret society influencing Ottoman politics from behind the scenes. As a result of the political pressure caused by the election scandal of 1912, the government backed by the CUP resigned and was replaced by a National Unity Coalition of all Young Turk parties (except the CUP) led by the "Great Cabinet."<sup>50</sup>

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<sup>48</sup> Gönen, pp. 175.

<sup>49</sup> For more details on the *Entente Liberal* please see Hanioglu's *Young Turks in Opposition and Preparation for a Revolution*, pp. 289-311. See also and Kayali's *The Young Turks and the Arabs*.

The “Great Cabinet” quickly purged the government and Ottoman politics of CUP members, arresting many, executing some, and chasing others into exile. The “Great Cabinet” also emasculated the CUP’s military support in the Balkans by 70,000 troops and demoted the Ottoman military leadership loyal to the CUP. Another apparent victim of the new government was the CUP’s prison reform program.<sup>51</sup>

The First Balkan War did not start until October 8, 1912. As a result of the military purges of CUP officers and troops, especially in the Balkans, the Ottoman armies were woefully unprepared and soundly defeated. The situation was so desperate that it appeared Edirne would be lost.<sup>52</sup> If that occurred, Istanbul would be completely exposed to foreign invasion and conquest. As a result, on January 28, 1913 some members of the CUP stormed the cabinet office of the Sublime Porte, shot the Minister of War, overthrew the “Great Cabinet” led by Kamil Pasha, and for the first time consolidated political power firmly within its own hands by eventually establishing the so called triumvirate of Talat Pasha, Enver Pasha, and Cemal Pasha. The CUP controlled cabinet reconvened parliament and reinstated all the loyal CUP members elected in 1912. Parliament thus

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<sup>50</sup> See Ahmet Feroz’s *The Young Turks: The Committee of Union and Progress in Turkish Politics 1908-1914* (Oxford: Clarendon Press, 1969), pp. 92-120 and Erik Zürcher, *Turkey a Modern History*, 5<sup>th</sup> ed. (London: I.B. Tauris, 2001), pp.112-14.

<sup>51</sup> See Kemal Yakut’s “The Exertions for the Depoliticisation of the Military in the Second Constitutionalist Era (1908-1912)” in Halil İnalcık (ed.) *The Great Ottoman, Turkish Civilization* (Ankara, 2000), pp. 691-704 and M. Naim Turfan’s *Rise of the Young Turks: Politics, the Military and Ottoman Collapse* (London: I.B. Tauris, 2000), pp. 155-65 and endnote 115.

<sup>52</sup> Edirne was a significant symbol of prestige because it had been the second capital of the early Ottoman Empire before the Ottomans conquered Constantinople in 1453. Edirne is only a couple of hundred kilometers west of Istanbul so to lose this important historic and cultural city to the Bulgarian ‘usurpers’ was a severe psychological blow to the Ottomans particularly the Young Turks.

became a rubber stamp for CUP policies and initiatives.<sup>53</sup> The CUP held absolute power in the empire until the end of World War I.

In response to the general upheaval caused by the Balkan Wars, the loss of territory, and the temporary loss of power, the CUP attempted to consolidate its political control even further by completely restructuring the Ministry of the Interior. On December 22, 1913, under the leadership of Talat Pasha who was once again Minister of the Interior, the Committee of Union and Progress issued the “Regulation for the Restructuring of the Ministry of the Interior” (*Dahiliye Nezareti Teşkilati Hakkında Nizamname*). This regulation was arguably the most important restructuring of any governmental ministry in the history of the Ottoman Empire. It completely overhauled, restructured, streamlined, centralized, and increased the power of the ministry. Out of all the reforms enacted by the CUP during the Second Constitutional Period, none was more extensive restructured than in the Ministry of the Interior.<sup>54</sup>

The new ‘central organizational core’ of the Ottoman Ministry of the Interior consisted of eleven Directorates, including the Directorate of Public Security (*Emniyet-i Umumiye Müdiriyeti*) and the Directorate of Prisons (*Hapishaneler Müdiriyeti*). Although similar organizations had been created shortly after the failed counter coup of 1909 and in 1911, the Regulation of 1913 restructured the Prison Administration into a ministerial directorate. This regulation gave these two directorates a more prominent

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<sup>53</sup> See Feroz Ahmet’s *The Young Turks*, Chapters V and VI.

<sup>54</sup> Findly, pp. 309, 313-14.



position within the Sublime Porte and the Interior Ministry. It also gave immense new powers to these two penal institutions.

The Directorate of Public Security was charged with “executing and pursuing all matters, issues, and affairs that concern the maintenance of public order, security, discipline, and the rule of law within all territories under [Ottoman] dominion.” It was also charged with “gathering and analyzing all intelligence dealing with its assigned duties” and was “responsible for maintaining and administering law enforcement.” For its part, the Directorate of Prisons (*Hapishaneler Müdiriyeti*) replaced the Prison Administration (*Hapishaneler İdaresi*), originally established in 1911. This constitutes an upgrade in status from being an ‘office or administration’ to that of a directorate in the Ottoman bureaucracy, thus giving it more power and authority on par with the other directorates within the Ministry of the Interior. Furthermore, this directorate was given extensive new powers which included “maintaining, repairing, operating, constructing, and administering all [Ottoman] prisons and gathering all necessary intelligence and information pertaining to any of the aforementioned responsibilities.”<sup>55</sup> The powers and responsibilities given to these two directorates are indicative of modern penal institutions.

From December 1913 on, the prison increasingly became a central laboratory for general CUP administrative and societal reform. Regardless of the suspension of the prison administrations programs as a result of the CUP’s temporary ouster from power, the CUP revived and resumed the suspended 1911-12 prison reform program. Annual

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<sup>55</sup> See *Düstur, Second Series* (Ankara, 1937-1943), Vol. VI, p. 131-32. The *Düstur* is a collection of all the laws and regulations officially published by the Sublime Porte from 1839-1922.

prison surveys were continued by the Directorate of Prisons based upon the same template as the original survey conducted in 1912.<sup>56</sup> This is in addition to the tri-annual reporting of numbers of those held in Ottoman prisons.<sup>57</sup>

In 1914, subtle but significant changes were made to the annual Ottoman Prison Survey questionnaire to improve the efficiency of the surveys, avoid errors of recording and interpretation, and to better reflect CUP ideology for the empire, particularly concerning the communal and national identities of the prisoners.<sup>58</sup> Also in 1914, the Directorate of Prisons initiated another comprehensive prison survey in addition to the regular annual prison statistical survey.

Similar to the annual Ottoman Prison Survey, this survey or questionnaire (*sual varakaları*) of 1914 was sent to every prison in the empire and returned. This new, one time survey consisted of a questionnaire regarding the state and condition of each prison facility. This survey was unique, because it called for local prison administrators to write extensive comments and suggestions about the specific needs for their respective prison facilities.<sup>59</sup> To make their cases some prison directors even included photographs of their

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<sup>56</sup> For examples of the annual Ottoman Prison Survey for years after 1912 see BOA, DHMBHPS 147/59, 147/93, 150/3, DHMBHPSM 11/66, 12/43, 15/1, 20/73, and 24/15.

<sup>57</sup> BOA, DHMBHPS 149/45 and 73/58 docs. 5 and 7.

<sup>58</sup> BOA, DHMBHPS 150/3. The specific changes made to the 1914 Ottoman Prison Survey questionnaire in relation to the ethno-religious communal and national identities of the prisoners are discussed and analyzed in chapter four.

<sup>59</sup> The general directives for this survey are contained in BOA, DHEUMMTK 13/11, 54/4, BOA, DHMBHPSM 9/59, and BOA, DHMBHPS 72/46. Each province and independent administrative district returned these completed questionnaires. For Adana: DHMBHPSM 11/84; Ankara: DHMBHPSM 11/26, DHMBHPS 57/39, and 154/40; Aydın: DHMBHPSM 10/6 and 11/18; Baghdad: DHMBHPSM 12/75; Beirut: DHMBHPSM 10/19; Bitlis: DHMBHPSM 10/10, 10/31, 11/8, 11/32, 11/43, 11/71, and 13/1; Bolu

facilities showing the woeful, undisciplined, crowded, and unsanitary conditions of their prisons and the hardships endured by inmates.<sup>60</sup> Other prison directors included proposed architectural plans for the prisons they wanted built.<sup>61</sup>

The findings of this survey resulted in a massive prison renovation and construction program similar to the one initiated in 1912. New construction projects were designed, funded, and commenced around the empire, particularly in the provincial centers. In its continued adherence to the 1880 prison administration regulation, it appears that the Directorate of Prisons was intent on building a prison in every administrative district in the empire (*vilayet, liva ve kaza*).<sup>62</sup> Similar to the 1911-12 plans to raise the money for such a massive construction and renovation project, on 25 January 1914 the Directorate of Prisons issued a directive calling for the selling of “ruined existing prisons and vacant lands” in order to finance the overhaul of Ottoman prisons.<sup>63</sup>

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Sancak: DHMBHPS 149/17; Canik Sancak: DHMBHPSM 10/4; Çatalca Sancak: DHMBHPSM 9/94; Diyarbakır: DHMBHPSM 12/18 and DHMBHPS 10/51; Edirne: DHMBHPS 149/6 and 149/9; Erzurum: DHMBHPSM 9/103 and 11/31; Halep: DHMBHPSM 10/40; Hijaz: DHMBHPS 149/12 and DHMBHPSM 11/7; Hüdavandigar: DHMBHPS 149/11; İstanbul: DHMBHPSM 9/96; İzmid Sancak: DHMBHPSM 9/106; Kala-i Sultaniye Sancak: DHMBHPSM 10/13; Karesi Sancak: DHMBHPSM 10/14; Kastamonu: DHMBHPSM 10/25 and DHMBHPS 152/35; Konya: DHMBHPSM 10/15; Mamüretülaziz: DHMBHPSM 12/21; Mosul: DHMBHPSM 12/33; Sivas: DHMBHPSM 10/52; Syria: DHMBHPSM 11/27; Trabzon: DHMBHPSM 11/25 and 18/62; Urfa Sancak: DHMBHPSM 10/5; Van: DHMBHPS 149/36; Yemen: DHMBHPSM 12/31, DHMBHPS 149/49 and 150/74; Zor Sancak: DHMBHPSM 11/24.

<sup>60</sup> See BOA, DHMBHPSM 10/14 docs. 12-15.

<sup>61</sup> See BOA, DHMBHPSM 9/103 and DHMBHPSM 11/84.

<sup>62</sup> See BOA, DHMBHPS 72/30 and 73/11. For the article in the 1880 Prison Administrative Code referring to the building of prisons in every administrative district of the empire on the *kaza* level and higher, see BOA, DHMBHPSM 31/82, article 1.

<sup>63</sup> See BOA, DHMBHPA 72/30.

As a result of this revitalized building and renovation program scores of new prison construction projects were initiated. Land surveys, building estimates, and expenditures were submitted to the Ottoman prison administration and approval by the administration and funding from the Ministry of Finance was obtained. There are literally hundreds of prison architectural designs, building estimates, and expenditure reports held in the Ottoman archives, which illustrate and substantiate the massive scale of this operation.<sup>64</sup> Unlike during the Balkan Wars, with the onset Ottoman participation in the Great War, prison reform was not suspended. In fact, it continued to increase and expand to its greatest level in the empire's long history.

### **Prison Reform and the Great War: more stats, more construction, more reform, and Dr. Paul Pollitz**

With the outbreak of hostilities that marked the beginning of World War I and Ottoman entry in the fall of 1914, prison reform programs were not slowed as a result of the commencement of 'total war.' They were expanded. The effort, time, and resources expended during the war on prison reform, more than anything else, demonstrates the importance of prisons and penal institutions to the Committee of Union and Progress.

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<sup>64</sup> See catalogues of the Directorate of Prisons in the Ottoman Imperial Archives (BOA) for Hicri year 1332. There are four catalogues listed as DHMBHPSM (one catalogue) and DHMBHPS (three catalogues). Many of these construction projects were initially started in 1912, but were suspended and then revived in 1914. For one list of several prison construction projects in 1914 see BOA, DHMBHPSM 15/42.

The empire's efforts at penal reform during the Great War should not be attributed to pressure from their wartime allies (particularly Germany). CUP interest and efforts regarding penal codes, practices, and institutions predates their alliance with Germany and should not be considered a placation of the empire's ally in order to receive additional military and monetary support. The Ottoman Empire was always successful in securing the loans and financial assistance it wanted from Berlin during the war. Germany needed the Ottoman Empire's continued alliance and participation, more than the empire needed to continue its war effort. This gave the CUP and the Ottoman wartime Minister of Finance, Cavid Pasha, great leverage over its German ally when it came to financial matters.<sup>65</sup> Prison reform was able to continue and the CUP even secured financial assistance from Germany for the provisioning of its prisons.<sup>66</sup>

On 6 May 1915 the Directorate of Prisons completed yet another statistical collection campaign. This one did not deal with the state and conditions of prisons, but focused on prison budgets and expenditures in relation to the number of prisoners incarcerated. Each province was required to provide expenditures for the current and previous years, plus propose its budget for the following year.<sup>67</sup>

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<sup>65</sup> On the financial negotiations and relations between Germany and the Ottoman Empire during the Great War see Ulrich Trumpener, *Germany and the Ottoman Empire, 1914-1918*, 2<sup>nd</sup> ed. (New York: Caravan Books, 1989), pp. 271-351. Also see Ulrich Trumpener, "Germany and the End of the Ottoman Empire" in *The Great Powers and the End of the Ottoman Empire*, ed. Marian Kent (London: George Allen and UNWIN, 1984), pp. 111-39.

<sup>66</sup> See BOA, DHMBHPS 119/23.

<sup>67</sup> See BOA, DHMBHPS 58/48.

In early 1916, Cevdet Bey, a prison administrator, was commissioned and completed the translation of several foreign prison regulation codes (*hapishane nizamnameleri*). In the end, he translated the prison regulations for Berlin's jails, Italy, and Prussia.<sup>68</sup> The significance of these translations is that the Ottoman Directorate of Prisons was gathering information in order to craft a new prison regulation code, perhaps different from the 1880 Regulation for Prisons and Houses of Detention. In the end, however, the 1880 code was reaffirmed in 1917.

The importance of prisons to CUP ideology and state formation is demonstrated no clearer than during World War I. Faced again with great imperial crisis, the Ottoman administration continued to place heavy importance on prison reform. Sometime in the summer of 1916 Ottoman foreign officials in Germany began interviewing potential candidates for the newly created position of "Inspector General of Prisons and Penitentiary Establishments for the Ottoman Empire" (*Inspecteur Général des Prisons et Etablissements Pénitenciers de l'Empire Ottoman*). Ottoman officials narrowed the candidates to Dr. Paul Pollitz and M. Alexander Klein. Both candidates possessed extensive experience managing and directing German prisons. The successful candidate's main responsibility would be to overhaul, manage, and restructure the empire's prisons, particularly in the provinces.<sup>69</sup>

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<sup>68</sup> See BOA, DHMBHPS 74/57 and 74/66.

<sup>69</sup> For the discourse and *curriculum vitas* for each candidate and the discussion regarding the choice of Dr. Paul Pollitz see BOA, DHMBHPS 92/18.

In the end, the Directorate of Prisons informed the Ottoman Foreign Ministry of its choice. On 15 October 1916 the Ottoman Ambassador to Berlin, Ibrahim Hakki Pasha, hired Dr. Paul Pollitz as the Inspector General of Prisons and Penitentiary Establishments for the Ottoman Empire. This hiring was approved by the highest echelons of the Ottoman government, namely the Grand Vizer (Mehmed Said Halim Pasha) and the Minister of the Interior (Talat Pasha).<sup>70</sup>

Pollitz was a private German citizen, professional prison administrator, reformer, and criminal psychiatrist. According to his contract, Pollitz was to be paid a substantial annual salary of 1,200 Turkish Lira and he also received payments of 1,500 Francs upon his arrival to Istanbul and at his departure to offset travel expenditures. His period of service was for five years and he was to assume his post by 1 November 1916.<sup>71</sup>

After Pollitz's arrival to Istanbul and the commencement of his duties as Inspector General of Ottoman Prisons and Penitentiaries, he expanded and intensified the already robust penal reform programs initiated by the Directorate of Prisons. Upon his arrival, Pollitz immediately commenced and continued several important projects related to penal reform. The focus of his term as Inspector General of Ottoman Prisons and Penitentiaries consisted of several interrelated programs, namely greater administrative efficiency and oversight, expanding the construction of new prisons, improving health and hygiene conditions, and the plight of incarcerated minors. At the heart of formulating and

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<sup>70</sup> BOA, DHMBHPS 92/57, doc. 4.

<sup>71</sup> For a copy of Dr. Pollitz's contract with the Ottoman government see BOA, DHMBHPS 92/57 doc. 5. See also BOA, DHMBHPS 92/18, 92/44, and 92/46.

implementing these reforms was statistics. It appears that one of his first orders of business was to standardize the administration of all Ottoman prisons through the adoption of a comprehensive prison regulation.

As stated above, early in 1916, an Ottoman prison official, Cevdet Bey, translated several European prison regulatory codes.<sup>72</sup> Shortly after his arrival to Istanbul, Dr. Paul Pollitz began reviewing Ottoman prison regulations. On 28 December 1916, Pollitz submitted a draft proposal of a new code for prison regulations to the Ministry of the Interior. This massive document more than doubled the size of the 1880 “Regulation for Prisons and Houses of Detention” by adding an additional one hundred new articles to the pre-existing ninety-seven from the 1880 regulation. Some additions included clear stipulations on salaries for different prison employees based on position and experience, clearer guidelines regarding prison health and hygiene practices, daily prison routines and organization, and, most significantly, added emphasis and regulations pertaining to prison labor.<sup>73</sup> Debate regarding this draft prison regulation continued on for almost a year after its submission. In the end, this draft prison regulation proposal was never adopted. In fact, the original 1880 “Regulation for Prisons and Houses of Detention” was officially adopted, republished, and distributed to every prison throughout the empire in late 1917 and early 1918.<sup>74</sup> This was the first time in the Ottoman Empire’s long history that any

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<sup>72</sup> For citations regarding Cevdet Bey’s translations of European prison regulations see BOA, DHMBHPS 74/57 and 74/66.

<sup>73</sup> See BOA, DHMBHPS 158/27.

<sup>74</sup> Ibid. See also DHMBHPSM 31/82 and DHMBHPS 160/78.



comprehensive prison regulation was officially adopted and made binding on all prisons. Finally, prison practice, at least on paper, was completely standardized for the empire.

Just three days after submitting the expanded and revised Ottoman Prison Regulatory Code, on 1 January 1917, Dr. Pollitz issued a statement outlining a number of reforms to and necessary implementations of the Imperial Ottoman Penal Code. These reforms included the reorganization of sentenced criminals according to the gravity of their crimes and punishments in order to keep similarly sentenced criminals imprisoned together at a particular administrative level. For example, prisoners sentenced to one-three months should all be incarcerated at the lowest administrative level (*kaza*) while those with more serious offenses and sentences should be incarcerated together at the provincial (*vilayet*) or sub-provincial (*sancak*) level. Pollitz, throughout his tenure as Inspector General of Ottoman Prisons and in this report also championed the separation of the sentenced from the accused through the construction of many new *tevkifhaneler* or houses of detention designated only for the accused. This was done in order to better maintain order. He also proposed to restructure the powers and authorities of provincial, district, and sub-district governors regarding the administration of the empire's prisons.<sup>75</sup>

Dovetailed with these programs, the ratification of a comprehensive prison regulation, and the modification of the IOPC were new regulations for accounting practices and finances in Ottoman prisons. Starting as late as January 1917, Pollitz gathered extensive information pertaining to prison expenditures for 1916 by the

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<sup>75</sup> Regarding Dr. Paul Pollitz's proposed reforms and implementation of existing codes see BOA, DHMBHPS 76/31.

Directorate of Prisons and reported them to the Ministry of the Interior. For 1916, the budget for the Directorate of Prisons totaled 314,474 Turkish Lira (TL). This included 113,500 TL for supplies (food and materials), 4,000 TL for medicines, 40,213 TL for prison employee salaries, 20,350 TL for prison repairs, 3,311 TL for prison rentals,<sup>76</sup> 4,100 TL for the transport and transfer of prisoners, 110,000 TL for the construction of new prisons, and an additional amount of money of 13,000 TL and 6,000 TL for the construction of two prisons in Istanbul and Üsküdar respectively.<sup>77</sup> The proposed budget for 1917 replicated the amounts spent in 1916 for supplies, medicines, and salaries, but did not predict the amounts for building costs since those were still yet to be determined.<sup>78</sup>

The expenditure amount for Ottoman prisons in 1916 is really quite remarkable considering a war was being waged. The amount represented just two percent of the total budget for the Ministry of the Interior from 1912. The Ministry of the Interior, however, was responsible for the maintenance and operation of all internal services, transport, infrastructure, and government administrations throughout the empire. The fact that the Ottoman prison population made up less than .016% of the total Ottoman population makes the amount of resources spent on prisons an impressive sum.<sup>79</sup>

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<sup>76</sup> Often if there was not a proper prison in an area, especially for female prisoners, then the local government was required to rent space in order to house the prisoner.

<sup>77</sup> See BOA, DHMBHPS 158/29, doc. 2-4.

<sup>78</sup> Ibid.

Following this budget and expenditure work completed by Dr. Pollitz, he then continued on and proposed new regulations for Ottoman prison budgets and expenditures (*Hapishaneler Nizamnamesi'nin hapishanelerin hesap muameleleri*). It consisted of ten new articles mainly dealing with attempts at greater transparency, control, and accountability regarding the empire's prison expenses on all levels (local, provincial, and imperial). This new proposal was written up and appears to have been submitted to the Ministry of the Interior on 7 October 1917.<sup>80</sup>

1917 seems to have been the year for new Ottoman administrative regulations, or at least for proposing them. On 20 January 1917, the Ottoman Council of State (*Şura-yı Devlet*) debated a new Imperial Public Health Code (*Sıhhiye Nizamnamesi*). This proposed public health regulation was submitted by the Directorate of Public Health (*Sıhhiye Müdiriyeti Umumiyesi*) and was also headed by Talat Pasha at the time, in addition to his duties as Minister of the Interior.<sup>81</sup> Since the days of Sultan Abdülhamid II and his “Commission for Expediting Initiatives and Reforms” (*Tesri-i Muamelat ve Islahat Komisyonu*),<sup>82</sup> public health and hygiene, especially as they related to ‘total institutions,’ such as the prisons, the military, schools, and hospitals, have always been

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<sup>79</sup> For the budget and expenditures of the Ministry of the Interior for 1911-12 see Stanford Shaw, “Ottoman Expenditures and Budgets for the Late Nineteenth and Early Twentieth Centuries” *IJMES* 9/3 (October, 1978), pp. 373-78.

<sup>80</sup> BOA, DHMBHPS 159/41.

<sup>81</sup> See BOA, ŞD.HU 45/24.

<sup>82</sup> For a discussion on the significance and duties of “The Commission for Expediting Initiatives and Reforms” (*Tesri-i Muamelat ve Islahat Komisyonu*) established by Sultan Abdülhamid II, see chapter one p. 20.

critical issues of concern for the Ottoman Empire.<sup>83</sup> The reforming of prisons did not occur in a vacuum during the Second Constitutional Period, but worked in tandem with other comprehensive imperial reforms.

Another aspect of Pollitz's reform agenda for Ottoman prisons was to find out the state of Ottoman prisons and to understand and manage the numerous building projects under way. By 26 November 1916, Dr. Pollitz requested and received a report detailing the current building projects for jails and houses of detention (*tevkifhaneler*) within the Ottoman Empire. He received a list of jails (*tevkifhaneler*) for which construction had commenced in 1916. This list included Izmir, Adana, Mersin, Beirut, Eskişehir, Samsun, Izmid, Kayseri, Yozgurt, and Kala-i Sultaniye, in addition to the *tevkifhaneler* already under construction in Istanbul and Üsküdar. Each *tevkifhane* was being built to hold four hundred prisoners and contain separate quarters for men, women, and children. These houses of detention were also to contain an infirmary, toilets, washrooms, a mosque, a morgue, and a kitchen. Each new house of detention was going to cost between ten and fifteen thousand Turkish Lira. One interesting follow up question Pollitz had regarding the construction of these new prisons concerned the number of individual cells each of these prisons possessed.<sup>84</sup> It appears that Ottoman prisons did not possess individual cells at this point and Pollitz may have wanted to introduce this modern technique of space, discipline, and order into Ottoman prisons.<sup>85</sup>

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<sup>83</sup> For a detailed discussion and analysis of health and hygiene reforms within Ottoman prisons during the Second Constitutional Period see chapter seven.

<sup>84</sup> See BOA, DHMBHPS 158/8.

It must be noted that many of these construction and regulatory projects were initiated and underway prior to Pollitz's arrival. He had no prior influence on these projects. In other words, these were done at the initiative of the CUP controlled Ottoman Directorate of Prisons and not at the behest of Berlin. Prison reform in the Ottoman Empire was not the pet project of the Germans during World War I.

In addition to receiving all of these details regarding the construction of new jails/houses of detention, Pollitz wanted to know several additional items regarding Ottoman prisons in general. These questions were divided into four categories: 1. the physical structure of the building, such as size, capacity, age of building, and size of rooms, 2. general prison conditions, such as ventilation, lighting, and dampness, 3. prison health and hygiene, such as cleanliness, disease, the existence of a prison clinic, mentally ill prisoners, clothing, parasites, potable and bathing water, and toilets, and 4. food, such as its type, quality, and quantity.<sup>86</sup>

These questions and concerns regarding the state of Ottoman prisons and houses of detention appear to have led directly to another Directorate of Prisons statistical collection campaign. On 28 December 1916, Pollitz ordered another massive statistical campaign (*izahat*) on par with the annual Ottoman Prison Surveys.<sup>87</sup> This survey, however, possessed very specifically targeted areas for statistical collection that came to

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<sup>85</sup> The introduction of modern concepts of time and space into Ottoman prison organization and construction is discussed more fully in chapters five and seven.

<sup>86</sup> BOA, DHMBHPS 158/8, doc. 1.

<sup>87</sup> According to Redhouse's Turkish-English Dictionary, *izahat* literally means 'explanations.' This is fitting since the questions asked in this series of questionnaires addressed specific areas of interest for Pollitz for which he wanted explanations regarding the current state of prisons within the Ottoman Empire.

define Pollitz's tenure as Inspector General of Ottoman Prisons and Penitentiaries. The survey recorded the numbers of inmates eighteen years of age and under found in the empire's prisons, the sources of food and nourishment found in each prison, the names, location, and types of every prison and house of detention throughout the entire empire, the number of prisoners (male and female) and the type of crimes committed (*cinayet*, *günha* or *kabahat*), the number of work prisons, numbers of prisoners engaged in labor either inside or outside of the prison, the number and types of employees in each prison, and the number of prisoners who possess expertise or skills that would benefit the public good, such as farmers or road workers.<sup>88</sup> Many of the categories of inquiry for this new prison survey match the follow up questions Dr. Pollitz asked just a month earlier regarding the jails (*tevkifhaneler*) under construction in 1916 and 1917.<sup>89</sup> In fact, there is also a close correlation between the added emphasis Pollitz made regarding prison labor in his proposed prison regulation (*nizamname*) and the new prison survey as well.<sup>90</sup>

The questionnaires for Pollitz's prison survey were sent to every province and prison in the empire. In fact, in the directive issued by the Directorate of Prisons and the Ministry of the Interior and signed (in Ottoman Turkish, no less) by Pollitz, the provincial governors (*valiler*) were made personally responsible for the conduct and completion of the survey. They were responsible for supplying information "to the greatest degree (*en ziyade*) about the prison guards (*gardiyanlar*), prison officials (*memurler*), the prison

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<sup>88</sup> BOA, DHMBHPS 76/20, doc. 3.

<sup>89</sup> See BOA, DHMBHPS 158/8, doc. 1 and compare with BOA, DHMBHPS 76/20.

<sup>90</sup> See BOA, DHMBHPS 158/27 and compare with BOA, DHMBHPS 76/20.

board of directors (*heyet idaresi*), the prison directors (*müdürler*), and the general conditions of the prisons (*hapishanelerin ahval umumiyesi*).” They were also responsible to provide information regarding the number of prisoners being compelled to do agricultural work, and if there were sufficient numbers of prisoners employed in such work.<sup>91</sup> It appears that prisoners during the war were being put to work in the fields raising crops for the war effort and/or for local consumption. In the end, Pollitz justified and legitimated the conduct of the survey, because it would provide the “basis for the reorganization (*teşkilat*)” of the empire’s prisons.<sup>92</sup>

Throughout the spring of 1917 the forms were completed and returned to the Directorate of Prisons.<sup>93</sup> The results of this survey were compiled into a meticulously organized master copy. This type of summary of collected statistics had never been done for any of the other surveys carried out by the Ottoman Prison Administration or Directorate of Prisons prior to Pollitz’s arrival. This master copy collated and organized all of the collected information by province and administrative district. This meticulous

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<sup>91</sup> BOA, DHMBHPS 76/20, doc. 2.

<sup>92</sup> Ibid.

<sup>93</sup> The citations for the returned questionnaires for each province are as follows: Adana: BOA, DHMBHPSM 27/10, 27/20, 28/28, 29/26, and 30/5; Ankara: DHMBHPAM 27/24, 27/31, 29/65, and DHMBHPS 158/38; Aydın: DHMBHPSM 26/65, 28/3, and 28/44; Beirut: DHMBHPSM 23/29, 26/68, 26/70, 27/5, 27/14, 27/20, 28/4, 28/29, 31/31 and 53/11; Diyarbakır: DHMBHPSM 29/66; Edirne: DHMBHPSM 26/57, 26/74, and 27/27; Hüdavendigar: DHMBHPSM 26/59, 27/3, 27/28, 29/69, and DHMBHPS 12/49; İstanbul: DHMBHPSM 26/47, 26/49, 27/15, and 27/25; İzmit Sancak: DHMBHPSM 26/63; Jerusalem Sancak: DHMBHPSM 27/39; Kale-i Sultaniye Sancak: DHMBHPSM 27/4; Kastamonu: DHMBHPSM 26/45, 26/53, 26/69, 27/21, 27/47, 27/52, and 28/11; Konya: DHMBHPSM 27/1 and DHMBHPS 162/79; Mamuratülaziz: DHMBHPSM 29/30; Sivas: DHMBHPS 158/55; Syria: DHMBHPSM 26/66, 26/72, 27/46, 28/13, and 28/84; Trabzon: DHMBHPSM 27/17 and 27/34; Urfa Sancak: DHMBHPSM 28/1; Zor: DHMBHPSM 26/60.

organization makes it easy and convenient to utilize the surveys results in order to compile and compare these statistics for the entire empire.<sup>94</sup>

The statistical tabulations are impressive and this survey became the basis of another extensive reform program dealing with many of the issues of modernity and modernization, such as women and children in prisons, prisoner rehabilitation through education and work, public health and hygiene reforms, the official adoption of the “1880 Regulations for Prisons and Houses of Detention,” modern notions of time and space, new architectural designs, including individual cellular prisons and prisoner isolation, the continued construction of massive new prisons throughout the empire, and even economic development and industrialization through the construction of prison factories.<sup>95</sup> All of these issues will be treated in subsequent chapters.

Of all these different reforms on Pollitz’s agenda, one appears to have stood out above the rest, namely the issue of minors in Ottoman prisons. During his tenure, more statistics were collected on inmates under the age of nineteen than any other single topic. Not only did Pollitz order the collection of the overall number of child prisoners in his prison survey of 1917, but he also requested additional information on the empire’s incarcerated children in a different statistical collection action completed within two months of the first survey. In the follow up survey ordered and completed in March, April, and May of 1917, every prison in each province was required to list not only the

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<sup>94</sup> BOA, DHMBHPS 143/93.

<sup>95</sup> The results of the survey can be found in BOA, DHMBSHP 143/93 and information about the various reform programs initiated by Dr. Paul Pollitz and his activities as Inspector General of the Directorate of Prisons can be found in DHMBHPS 76/27, 76/31, 76/36, 76/60, 78/26, 78/47, 79/38, 80/2, 92/57, 123/26, 158/8, 158/27, 158/29, 158/42, 159/8, 159/41, 160/2, 160/78, 161/46 and DHMBHPSM 31/82



number of prisoners under the age of nineteen, but also their names, crimes, and dates of incarceration.<sup>96</sup> After this information was collected, it was then collated and a master list of every child under the age of nineteen was listed.<sup>97</sup> With this master list and the names of every incarcerated child within the empire, Dr. Paul Pollitz proceeded to pardon most of the incarcerated children under the age of eighteen. He also made special provisions for prisoners under the age of twenty-one years old.<sup>98</sup>

Additionally, on 1 January 1917, Dr. Pollitz issued a statement calling for the complete implementation of Article 40 of the IOPC. Among other things, this article mandated the construction of a juvenile reform house (*ıslahhane*) in each large city in the empire.<sup>99</sup> Children in Ottoman prisons were indeed important issues to Pollitz during his tenure. His focus was on rehabilitating them and this was to be done through the construction and running of reform schools (*ıslahhane*).

In many cases reforms affecting children in prisons, especially small children, also affect the status and treatment of incarcerated women. This was also an important

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<sup>96</sup> For the numbers and names of each incarcerated child for each province and administrative district within the Ottoman Empire in 1916-17 see Adana: BOA, DHMBHPS 158/66; Ankara: BOA, DHMBHPS 159/2; Aydın: BOA, DHMBHPS 158/2; Beirut: BOA, DHMBHPS 159/12; Bitlis: BOA, DHMBHPS 159/33; Canik: BOA, DHMBHPS 117/6; Diyarbakır: BOA, DHMBHPS 158/9; Halep: BOA, DHMBHPS 158/68; Hüdavendigar: BOA, DHMBHPS 159/7; İstanbul: BOA, DHMBHPS 158/17; Kastamonu: BOA, DHMBHPS 158/57; Konya: BOA, DHMBHPS 158/63; Mamüretülaziz: BOA, DHMBHPS 159/4; Mosul: BOA, DHMBHPS 159/10; Sivas: BOA, DHMBHPS 158/69; and Suriye (Syria): BOA, DHMBHPS 160/69.

<sup>97</sup> See BOA, DHMBHPS 159/5.

<sup>98</sup> There are also detailed statistics regarding the names of incarcerated children younger than eighteen who were pardoned in 1916-17. See BOA, DHMBHPS 108/16, 108/13, 108/27, 108/31, 159/16, and 159/36. A detailed analysis of these statistics related to incarcerated children in the Ottoman Empire and the treatment of children within Ottoman prisons are found in chapter six.

<sup>99</sup> Regarding Dr. Paul Pollitz's proposed reforms and implementation of existing IOPC codes, including the construction of reform schools, see BOA, DHMBHPS 76/31.

focus of Pollitz's reforms. For incarcerated women who were nursing mothers and those who were caring for small children special provisions were made. Extra rations were provided to nursing mothers and those incarcerated females with small children were separated from the regular female prisoner population.<sup>100</sup> The issue of children in prisons, the reforms associated with them, and how this reflects changing notions of childhood during the late Ottoman Empire are dealt with extensively in chapter six.

A large portion of Pollitz's time in office was spent inspecting prisons and prison construction programs, proposing changes, and seeing that those changes were carried out. His peregrinations took him throughout the empire from Rumeli to the Aegean to Anatolia and the Arab provinces of the empire. He continued to inspect prisons and led out in terms of prison reforms in the Ottoman Empire until he was relieved from duty in 1919 and prison reform in the empire came to a screeching halt.<sup>101</sup>

Dr. Paul Pollitz continued to serve as Inspector General of Ottoman Prisons and Penitentiaries for another year after the First World War. He served as a private German citizen and not as part of the Germany military contingency, which was sent to lead and advise the Ottoman war effort. This is probably the reason Pollitz was allowed to stay on for a short time after the cessation of hostilities. However, with the exile and ousting of Talat Pasha and the CUP from power, the prison reform program was quickly abandoned

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<sup>100</sup> See DHMBHPS 61/20 and 160/82.

<sup>101</sup> See BOA, DHMBHPS 76/36, 159/8, 160/2, 78/26, 78/47, 78/59, 161/46, 79/30, 123/26, 79/38, and DHMBHPSM 33/60.

and funding was slashed. In 1919, the new Ottoman government set in place during the Allied occupation of Istanbul, suspended Pollitz's contract.<sup>102</sup>

Without the CUP in power, prison reform was simply not a priority and funding for such projects was quickly suspended. Therefore, when the Allied Powers, at the direction and behest of the British, decided to investigate prison conditions in Istanbul in 1919, they found horrifying conditions including wide scale corruption, starvation, and death due to disease and filthy living conditions.<sup>103</sup> It appears that the only reforms carried out in the empire's prisons during the Armistice Period (*Mütakere Dönemi*) and the Allied occupation of Istanbul occurred as a result of British pressure. The period of intensive prison reform ended with the CUP's ouster from power, the allied occupation, the Turkish War of Independence, the explosion of ethnic nationalism among Muslims in the Middle East, the installation of the mandates system, and the dismemberment and end of the Ottoman Empire. The progressivism of the late Ottoman Empire and the CUP in terms of prison reform ended with the expulsion of the CUP and Dr. Pollitz.

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<sup>102</sup> See BOA, DHMBHPS 79/38 doc. 95-97.

<sup>103</sup> See FO 608/52/13 pp. 235-43, FO 608/114/4 pp. 118-88, and FO 608/103/3 pp. 269-72. For a descriptive study on criminal elements and prisons in Istanbul during the Allied occupation (1918-1921) see Mümin Yıldıztaş, "Mütareke Döneminde Suç Unsurları ve İstanbul Hapishanleri ," MA Thesis (İstanbul: İstanbul Üniversitesi, 1997), p. 86.

## Conclusion

The most significant and perhaps interesting issue related to the reforms initiated and carried out under Dr. Paul Pollitz's tenure as Inspector General of Prisons is that it was funded at an unprecedented level by the Germans and the Ottomans throughout World War I.<sup>104</sup> With massive starvation, population transfers, civil war, ethnic cleansing, epidemic plagues, the chaos of war, and in the face of utter defeat, the CUP continued its prison reform campaign in order to reform Ottoman society. Prisons must be integrated into a holistic picture of CUP social-engineering projects and programs. The CUP's activities during the First World War, more than anything, demonstrate the importance penal institutions played as a laboratory for their vision of a progressive, civilized, scientific, and thoroughly modern imperial society. Statistics were at the heart of achieving this vision due to the knowledge and power they produced for members of the Committee of Union and Progress to utilize. This program laid the foundation for the penal institutions created and utilized in the Middle Eastern states which emerged from the ashes of the Ottoman Empire after the Great War. Any study of modern penal institutions and practices in the former territories of the Ottoman Empire must take this foundation into account and integrate it into its study.

Subsequent chapters of this work analyze in detail particular 'issues of modernity,' such as national identity, economic development, the state's newly assumed role of caring for its population in terms of public health and hygiene, social order and

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<sup>104</sup> BOA, DHMBHPS 119/23

discipline, childhood, social engineering, and administrative centralization and rationalization, in order to demonstrate how prisons became and acted as CUP 'laboratories of modernity.' By utilizing prisons as windows into late Ottoman state and society, this study goes beyond an institutional history of prisons and sheds light on broader currents and trends in the late Ottoman Empire and the Middle East. This study also demonstrates that prisons, at least in the Ottoman Empire, were utilized for much greater purposes than simply promoting discipline and social control on a modernizing empire embroiled in one crisis after another. Prisons were central institutions for modernizing the empire in all its varied facets and programs.

## Chapter Three

### **Consolidating Power and Authority over Crime: The Imperial Ottoman Penal Code, the Ottoman Prison Survey, and the Abrogation of Islamic Law**

In 1911, the Ministry of the Interior created the Ottoman Prison Administration (*Hapishanler İdaresi*). This organization, for the first time, streamlined and consolidated the ad hoc and decentralized Ottoman system of over a thousand different prisons and houses of detention into one centralized bureaucratic administration and initiated the empire's first comprehensive prison reform program. In order to design and implement this aggressive reform program, the Ottoman Prison Administration commenced the most comprehensive prison statistical collection campaign in the history of the empire on January 18, 1912. The 1912 Ottoman Prison Survey requested precise information related to the identity of the incarcerated. The categories of inquiry associated with prisoners included the specific crimes committed, gender, date of incarceration, marital and familial status, recidivism, prison sentence and punishment, social class and occupation, ethno-religious communal and national identity, age, and each prisoner's level of education. Under each of these general categories were additional items related to the prisoner's identity that the central prison administration required. For example, under familial status the various categories were differentiated according to gender. Under each gender the various categories included—single, married with children,

married without children, widowed with children, widowed without children. These categories were organized according to the gender of the prisoner.<sup>1</sup>

The level of information collected and tabulated by means of this survey fits the description of what Michel Foucault called the '*tableaux vivants*.'<sup>2</sup> The 1912 Ottoman Prison Survey constituted "both a technique of power and a procedure of knowledge."<sup>3</sup> Questionnaires and censuses of this type are important tools that a state administration utilizes to quantify, identify, categorize, and control its population. Not only do they provide important statistical data which facilitates the reconstruction of the prison population itself, but the categories of inquiry also offer revealing insights into how members of the CUP viewed crime and socio-economic status and what segments of society and which crimes were most threatening to its vision for the empire and the Ottoman nation-state.

Through a careful analysis and comparison of the 4 June 1911 revisions of the 1858 Imperial Ottoman Penal Code, prison reforms, and the 1912 Ottoman Prison Survey several important insights are gained into CUP ideology and pragmatism and into Ottoman society during the Second Constitutional Period. First, I shall demonstrate CUP intentions and attempts to abrogate the authority of Islamic law in adjudicating criminal cases, thereby expanding and centralizing government authority and power over criminal courts and proceedings. Second, I shall demonstrate a direct correlation between

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<sup>1</sup> BOA, DHMBHPSM 3/5.

<sup>2</sup> Michel Foucault's *Discipline and Punish: the Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon Press, 1995), pp. 148-49.

<sup>3</sup> *Ibid.*, p. 148.

revisions made to the IOPC, CUP penal policy and practice, prison reform, and the Ottoman Prison Survey, particularly as it relates to crime. Third, I shall reveal some of the CUP membership's views regarding what crimes and criminals constituted a threat to the Ottoman nation and the CUP's programs of imperial regeneration. Fourth, through this analysis I shall reconstruct, at least in part, the Ottoman prison population in terms of its socio-economic composition and criminal behavior. This, in turn, reveals which crimes were most actively prosecuted and punished in Ottoman society and from what socio-economic background these criminals originated.

Prior to conducting an in depth analysis of the revisions made to the Imperial Ottoman Penal Code and their impact on and reflection in the Ottoman Prison Survey, I shall discuss two related items. First, a brief discussion concerning the origins, development, content, and reform of the 1858 IOPC is necessary. Second, I shall discuss the structure and limitations of the Ottoman Prison Survey's questionnaire.

## **The Imperial Ottoman Penal Code of 1858 and Beyond**

In the nineteenth century Ottoman Empire, sultans and bureaucrats made many legal reforms on paper, but their practical application was slow and woefully inadequate. This is particularly true in the field of penal institutions, policies, and practices.<sup>4</sup> But, even though new penal codes and laws were never fully implemented, they did lay the

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<sup>4</sup> See chapter one for a brief overview of nineteenth century Ottoman penal reforms. Also see Gültekin Yıldız, *Osmanlı Devleti'nde Hapishane Islahatı (1838-1908)*, MA thesis (Marmara University: 2002).



foundation for future reforms, particularly during the Second Constitutional Period. It was during this period that legal and practical reforms were synchronized. A compelling and concrete example of this simultaneous reform and application was the 1911 revisions to the 1858 IOPC and the commencement of the first comprehensive prison reforms in the Ottoman Empire.

The primary source of the IOPC was the 1810 French Penal Code.<sup>5</sup> In fact, much of the IOPC was translated directly from the 1810 French code as a replacement of the 1851 Ottoman Criminal Code. The IOPC consisted of 264 articles dealing with criminal legal procedures, crimes, liabilities, and punishments. The code was divided into four main sections, a “Preliminary” section and three chapters. The “Preliminary” consisted of forty-seven articles broken into four parts. The four parts of the “Preliminary” set forth the general grades and degrees of offenses and punishments, detailing the punishments for serious crimes (*cinayet*) and lesser crimes (*günha* and *kabahat*). The ‘Preliminary’ also stipulated the guidelines for determining criminal liability.<sup>6</sup>

The second section of the IOPC or “First Chapter” delineated crimes carried out against the Ottoman state and the general well-being of its populace and their associated punishments. The “First Chapter” included 121 articles divided into sixteen subsections.

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<sup>5</sup> For a brief, but useful discussion of the source and significance of the initial 1858 Imperial Ottoman Criminal Code see Gabriel Baer, “The Transition from Traditional to Western Criminal Law in Turkey and Egypt,” *Studia Islamica*, no. 45 (1977), pp. 139-58. See also *The Imperial Ottoman Penal Code: A Translation from the Turkish Text with Latest Additions and Amendments Together with Annotations and Explanatory Commentaries upon the Text and Containing an Appendix Dealing with the Special Amendments in Force in Cyprus and the Judicial Decisions of the Cyprus Courts* by John A. Strachey Bucknill and Haig Apisoghom S. Utidjian (Oxford: Oxford University Press, 1913), pp. ix-xvi.

<sup>6</sup> See Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, pp. 1-36.

The sixteen subsections deal with crimes that disturb the external and internal security of the empire, such as espionage, incitement to riot and civil war, brigandage, banditry, abrogation of the constitution, and so forth. Other subsections deal with bribery, theft of state property, abuse of office, power, and negligence of duties, disobedience or opposition to government officials, aiding and abetting criminals, impersonating Ottoman officials, interfering with religious privileges, disrupting or destroying imperial telecommunications, censorship and printing, counterfeiting, forgery, and arson.<sup>7</sup>

The third section of the IOPC or “Second Chapter” was divided into twelve subsections containing eighty-six articles detailing crimes and punishments against individuals. The enumerated crimes against persons include homicide in its various forms, bodily injuries, threats, abortion, selling adulterated beverages and medicines, violations of honor (rape, molestation, or kidnapping female juveniles), improper arrest and incarceration, perjury, slander, vituperation, theft, bankruptcy, embezzlement, breach of contract, fraud, and the destruction of private property.<sup>8</sup> The fourth and final section of the IOPC or “Third Chapter” consisted of twelve articles all associated with minor crimes (*kabihat*) and punishments pertaining to matters of sanitation, cleanliness, and the police. Some of the particular crimes and punishments delineated the following offenses: improper maintenance of chimneys and furnaces, disturbing the peace with loud noise or raucous behavior, public drunkenness, and the improper burial of corpses.<sup>9</sup>

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<sup>7</sup> Ibid., pp. 37-123.

<sup>8</sup> Ibid., pp. 124-98.

<sup>9</sup> Ibid, pp. 199-208.

The adoption of the IOPC in 1858 represents a fundamental shift in Ottoman criminal law. For the first time in Ottoman history the protection of personal rights was partially appropriated from the realm of religious law. This was the first time that the Ottoman state and Islamic law shared jurisdiction over crimes against individuals. Even under the 1840 and 1851 penal codes all crimes dealing with individual rights or abuses were completely under the jurisdiction of *shari'a* (Islamic) courts and governed by Islamic law. After the adoption of the 1858 Penal Code, the state was now responsible not only for public order, imperial security, and perpetuation of the dynasty, but also for the protection of the individual, even when that had nothing to do with public order and security.<sup>10</sup> Not only was the IOPC the first Ottoman penal code under which the state assumed responsibility for individual rights, it was also the first to divide crimes against individuals into three distinct categories. These categories were “(1) crimes committed against lives and individual security, (2) crimes against honour and dignity, and (3) crimes against the property of citizens.”<sup>11</sup>

Over the course of the second half of the nineteenth century, Ottoman sultans and bureaucrats made several changes, adaptations, and additions to the IOPC in order to make it more compatible with the specific needs of the empire. However, during the Second Constitutional Period the Committee of Union and Progress undertook the most comprehensive reforms to the 1858 IOPC. Most CUP penal code reforms focused on

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<sup>10</sup> See Baer, “The Transition from Traditional to Western Criminal Law in Turkey and Egypt,” pp. 144-45.

<sup>11</sup> See Günihal Bozkurt, “The Reception of Western European Law in Turkey (From the Tanzimat to the Turkish Republic, 1839-1939),” *Der Islam*, 75/2 (1998), pp. 283-295. This article is a very short summary of his *Batı Hukukunun Türkiye’de Benimsenmesi* (Ankara: Türk Tarih Kurumu, 1996), 238 p.

four separate, but related areas. Each area of reform also related to broader CUP goals for reforming the empire by creating a centralized, efficient, progressive, and rational administrative system in order to expand and centralize the power of the state over society. Therefore, CUP revisions to the IOPC focused on rationalizing punishments and criminal proceedings; expanding and centralizing governmental power to determine and adjudicate criminal activity at the expense of Islamic law; gaining a greater monopoly over the use of force by assuming sole authority in exacting, determining, and imposing punishments; and eliminating intermediaries between state centralized power and criminals. These changes in turn enabled the CUP and the Ottoman administration to gain greater access to the populace and assume more responsibility for its welfare through the protection of individual rights and private property.

These goals were to be accomplished in two ways. First, the CUP increasingly restricted and eventually abrogated completely the jurisdiction and primacy of Islamic law in adjudicating criminal matters by reforming the IOPC. This continued during the Second Constitutional Period until 1917 when the CUP passed legislation that completely stripped *shari'a* courts of their power to adjudicate in all criminal matters. Not until the final year of the empire's existence did the state finally assume total control over all criminal matters within the territory of the empire.<sup>12</sup> Second, the CUP increasingly systematized and standardized *siyasa* and *ta'zir* punishments. The arbitrary nature of

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<sup>12</sup> For a cursory summary of the changes in to the Ottoman Penal Code during the nineteenth and early twentieth century see Rudolph Peters' *Crime and Punishment in Islamic Law*, pp. 69-141. There has yet to be completed a comprehensive analytical study of Ottoman criminal law reform during the nineteenth and early twentieth centuries.

these punishments allowed by Islamic and *qanuni* (imperial) law worked contrary to the CUP's vision of a centralized, efficient, progressive, and rational Ottoman state.<sup>13</sup>

The reforms of the 1858 IOPC during the Second Constitutional Period were the culmination of continuous revisions enacted since the code's initial adoption. However, since its adoption, the IOPC had never been more comprehensively changed than during the Second Constitutional Period. On 4 June 1911, the Ottoman Parliament, at the behest of the Committee of Union and Progress, repealed and reissued the 1858 IOPC in its most modified and expanded form.<sup>14</sup> The major modifications to the IOPC carried out in June 1911 include the following:

1. New stipulations regarding the punishment of repeat offenders.
2. The removal of the use of torture in order to extract the payment of court fees, fines, and the restitution of stolen properties.
3. The seizure of articles prepared and/or used for committing an offense.
4. The use of incarceration for unpaid fines or the inability to pay fines.
5. The deduction of time served prior to trial and sentencing from the punishment handed down by the courts.
6. Regulations regarding accountability for crimes committed by children, the insane, and in self-defense.
7. Punishments for criminal intent.
8. Offences and punishments pertaining to the external and internal security of the Ottoman Empire.
9. New regulations and punishments for bribery.

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<sup>13</sup> *Siyasa* and *ta'zir* punishments are defined as "discretionary justice exercised by the head of state and executive officials, not restricted by the rules of the Shari'a" and "discretionary punishments" respectively (Peters' *Crime and Punishment in Islamic Law*, p. 196). In Ottoman times these punishments were meted out by rulers or magistrates (sultans, governors, police, etc.) upon a criminal suspect who for procedural or technical reasons was unable to be convicted according to Islamic law, but who is obviously guilty. These punishments were often be arbitrary as long as they did not equal the maximum punishment stipulated for that particular crime according to Islamic law (pp. 127-33). For a complete discussion of *siyasa* and *ta'zir* punishments and their application please see Rudolph Peters' *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (Cambridge: Cambridge University Press, 2005), 219 p.

<sup>14</sup> Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, p. xiv.

10. Crimes related to the opposition or the circumvention to state regulations, particularly those concerning public health, hygiene, security and order.
11. Punishments meted out for dereliction of duty by a state official.
12. Regulations concerning the unlawful entry into the private premises of individuals by any person.
13. Regulations forbidding the ill-treatment of individuals by government officials, particularly in relation to torture or bodily harm.
14. Regulations and punishments related to persons opposing, disobeying or insulting government officials.
15. Offences and punishments pertaining to persons assuming official capacity without having the right or authority to do so.
16. Punishments pertaining to the destruction of telephone and telegraph communications.
17. Regulations and punishments related to forgery.
18. Regulations and punishments pertaining to arson and the manufacture, possession, and selling of illegal weapons and explosives.
19. Crimes and punishments related to homicide and physical assault.
20. Crimes and punishments pertaining to persons causing abortion, selling adulterated drinks, or poisons without guarantee.
21. Regulations and punishments regarding persons who violate honor, such as molestation, illicit sexual relations, kidnapping, and rape.
22. Punishments and amendments pertaining to unlawful incarceration, kidnapping of infants, children, and girls.
23. Punishments and regulations regarding calumny, vituperation, and the divulgence of secrets.
24. Regulations and punishments pertaining to theft.
25. Regulations and punishments concerning the destruction of property and causing loss to people.
26. Punishments pertaining to persons guilty of *kabahats* against matters of sanitation, cleanliness, and police.<sup>15</sup>

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<sup>15</sup> Ibid., pp. 10-11, 12, 13, 24-25, 26, 27-31 (This revised article changed the determination of the age of accountability. In fact it created a gradation of accountability and punishment between the ages of fourteen to nineteen years. According to Islamic law the age of accountability was solely based upon puberty (starting at nine years old for girls and at twelve years old for boys). If they had not shown the signs of puberty at those ages then they are considered *murahiq* or *murahiqah* until they reached puberty which for both sexes must occur by the age of fifteen. According to the reform, the age of accountability was now uniformly set for both sexes at the completion of his/her thirteenth year, thus abrogating Islamic law. However, there was a reduced punishment for those convicted of crimes who committed them prior to the completion of their eighteenth year. Children who are not at the age of accountability were either released to the supervision of their parents or placed in a reform school (*islahhane*). This was a significant reform regarding children in prisons on which more shall be discussed in chapter seven.), 33-35, 37-60, 60-69, 76-77, 79, 80-82, 82-83, 86-92, 99-100, 102-04, 109-18, 118-23, 124-45, 145-49, 149-57, 158-62, 164-70, 171-83, 192-98, and 199-208.

Every section of the code was augmented, updated, and revised. In fact, out of the 265 articles contained in the IOPC, a total of fifty-six articles were rescinded, revised, and/or expanded.<sup>16</sup> This constitutes the revision of over seventeen percent of the entire code.

At the same time the CUP was revising the IOPC, it was also implementing the first of its extensive prison reforms in late 1911 and early 1912 including the creation of the first centralized administration for Ottoman prisons, the Ottoman Prison Survey, and a comprehensive program to completely refurbish and modernize the empire's prisons and jails. It is no accident that judicial, criminal, and penal reforms were enacted in conjunction with each other in 1911-12. The Ministry of the Interior initiated massive reforms on all levels and in all departments of its ministry.

For the purposes of this chapter, I shall only discuss and analyze penal code reforms associated with the crimes collected in the 1912 Ottoman Prison Survey. It should not be surprising that the majority of crimes for which the prison survey requested information were the ones most augmented or newly enacted by the sweeping penal code changes of 4 June 1911. An analysis of this intersection between these penal code reforms and the prison survey offers intriguing insights into CUP ideology concerning state formation, particularly regarding the consolidation of authority in the hands of the state regarding criminal matters, threats to CUP power and the state, and issues dealing with social order and control. Prior to an in depth analysis of the intersection between the

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<sup>16</sup> Other articles were modified during the Second Constitutional Period in addition to these fifty-six articles. The fifty-six articles modified on 4 June 1911 include Articles 8, 11, 12, 37, 39, 40, 42, 45, 46, 47, 55, 67, 68, 69, 76, 99, 102, 105, 106, 113, 114, 115, 116, 130, 134, 135, 136, 155, 166, 170, 174, 175, 177, 178, 179, 180, 188, 189, 190, 191, 192, 197, 201, 202, 206, 213, 214, 220, 222, 224, 225, 226, 230, 252, 253, and 255. See Bucknill and Utidjian, *The Imperial Ottoman Penal Code*.

revisions made to the penal code and the 1912 Ottoman Prison Survey, I shall discuss the structure and limitations of the Ottoman Prison Survey.

## **The Structure and Limitations of the Ottoman Prison Survey**

As is the case with all statistics, the Ottoman Prison Survey questionnaire possesses limitations regarding the usefulness of its data. Its organization and arrangement was orientated according to criminal behavior and gender. The thirty-three specific crimes, for which data was collected, drove the rest of the tabulation process. Prisoners were not identified by name. In fact, no names were recorded. Instead, the prison population was organized according to particular crimes and the gender of each prisoner. Then, information regarding those incarcerated for a particular crime was tabulated according to the other categories of inquiry, such as age, marital status, socio-economic status/occupation, ethno-religious/national identity, and so forth.<sup>17</sup>

For example, in the Cebile (جبلية) Prison located in the Trablusşam administrative district (*sancak*) of the Beirut Province (*vilayet*) the total prison population was 159 individuals in 1912. Of those 159, eighty-three were awaiting trial and seventy-six had been convicted of a crime and sentenced to a period of incarceration. Among the seventy-six sentenced criminals, fifty-one (forty-four males and seven females) were incarcerated for assault. All were sentenced to a period of incarceration ranging from

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<sup>17</sup> BOA, DHMBHPSM 8/3 doc. 13.



one week to one month. Twenty males were single, fifteen were married with children, and nine were married without children. Of the seven females convicted of assault, four were married with children and three were married without children. Occupational data was the only category not broken down by gender. There were twenty-one farmers (*zürra*), thirteen laborers (*amele*), nine artisans/guildsmen (*asnaf*), five merchants (*tüccar*), and three landowners (*ashab-ı akar*). All fifty-one prisoners were Muslim and under this category gender was differentiated. The ages of the prisoners were also categorized according to gender, eighteen males were between fourteen and twenty years old, ten males between twenty and thirty, twelve between thirty and forty years old, three between forty and fifty, and one male between sixty and seventy years old. The ages of the seven female prisoners were all between twenty and thirty years old. Finally, the education levels of the prisoners convicted of assault were broken down according to gender with twenty-five males listed as literate. The other inmates (nineteen males and seven females) were all illiterate.<sup>18</sup>

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<sup>18</sup> BOA, DHMBHPSM 5/9, doc. 4. See figure 3-1.

The image shows a completed Ottoman Prison Survey questionnaire from 1912. The document is a long, narrow form with multiple columns and rows, containing handwritten text in Ottoman Turkish. The form is divided into several sections by horizontal lines. The top section contains a header with the year '1330' (1912) and the location 'Beirut'. The main body of the form contains detailed information about the prison, including the number of prisoners, the type of prison, and the names of the officials. The bottom section contains a summary of the information.

Figure 3-1: Photograph of the 1912 completed Ottoman Prison Survey questionnaire from the Beirut Province's Cebele Prison. BOA, DHMBHPS 5/9, doc. 4.

The limitations of this data should be clear from this description of the organization and content of the questionnaire. In most cases it is not possible to match one specific prisoner incarcerated for a particular crime with her/his age, occupation, literacy level, or ethno-religious/national identity unless s/he was the only person incarcerated for that particular crime. There is some differentiation according to gender, but that is the extent of it.

Other limitations regarding the usefulness of the information provided by the Ottoman Prison Survey are of a more practical nature. Not all of the data from the questionnaires is available for every district of every province in the empire. Depending on the year there are only certain sources still available for investigation. It is apparent that the survey results of each province in the empire did exist at one time, but have subsequently been lost or withheld.<sup>19</sup> For example, the questionnaires for Van, Ankara, or Sivas for the 1912 survey appear not to have survived. The surveys, however, for other provinces have survived, such as Istanbul, Beirut, Baghdad, Mosul, Edirne, Yanya, and the Hijaz.<sup>20</sup> The Eastern Anatolian provinces of the empire, which contained the bulk of the empire's Armenian population, no longer exist or are no longer accessible.

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<sup>19</sup> Correspondence regarding the submission and reception of the completed surveys by all provinces and districts does exist in the BOA, but unfortunately the actual submitted questionnaires have been lost, catalogued improperly, withheld, or no longer exist in the archives. Examples of proof that the completed documents had been sent and received can be found in BOA, DHMBHPS 143/36, DHMBHPS 145/22, 145/28, 145/29, 145/34, 145/35, 145/38, 145/39, 145/40, 145/41, 145/42, 145/44, 145/43, 145/48, 145/55, 145/57, 145/59, 145/60, 145/61, 145/62, 145/64, 145/67, 145/68, 145/73, 145/80, 145/81, 145/83, 145/84, 145/87, and DHMBHPS 146/1, 146/2, 146/4, 146/8, 146/18, 146/20, 146/21, 146/23, 146/24, 146/30, 146/33, 146/34, 146/36, 146/41, 146/43, 146/44, 146/45, 146/51, 146/66, 146/72. Each of these documents is from Hicra 1330 or early 1912 when the surveys were supposed to be conducted and the results submitted to the Ottoman Prison Administration.

There are also many recording errors in the surviving documents. Some were not completely or accurately filled out. Many times certain information was omitted. On some forms the prisoners' ages or ethno-religious/national identities were not supplied. On other forms there was confusion regarding the correct way to complete the forms and certain information was incorrectly documented. These problems are to be expected since many of the prison employees were illiterate. Furthermore, with an empire as vast and diverse as the Ottoman, in terms of geography, language, ethnicity, religion, and the level of administrative centralization, there was bound to be confusion regarding the proper conduct of the survey.

It is impossible, therefore, to completely reconstruct the entire Ottoman Prison population for any one year during the Second Constitutional Period. With that in mind, however, the documents that do survive are rich and make up over two thirds of the Ottoman Empire's prison population. This makes it possible to reconstruct the prison populations for entire provinces. For example, the complete 1911-12 prison populations for the provinces and administrative districts of Istanbul, Baghdad, Mosul, Canik, Kastamonu, the Hicaz, Beirut, Mamüretülaziz, Edirne, Yanya, and Manastır can be reconstructed.<sup>21</sup> Also the total prison statistics for each of the years of 1912, 1914, 1916-

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<sup>20</sup> In 1912, it appears that the Ottoman Empire's administrative organization consisted of the following provinces (*vilayetler*): Adana, Ankara, Aydın, Baghdad, Basra, Beyrut, Bitlis, Diyarbakır, Edirne, Erzurum, Halep, Hicaz, Hüdavendigar, İstanbul, Kastamonu, Konya, Mamüretülaziz, Manastır, Mosul, Sivas, Suriye, Trabzon, Van, and Yemen. The empire's administrative organization also consisted of the following administrative districts (*sancaklar*): Asir, Bolu, Canik, Çatalca, İzmid, Kadi şerife, Ka`la sultaniye, Karahisar sahib, Karesi, Kayseri, Kütahya, Maraş, Medine, Menteşe, Teke/Tekke, Urfa, and Zor.

<sup>21</sup> The references for 1912 Ottoman Prison Survey statistics are Istanbul: BOA, DHMBHPSM 4/4; Baghdad: BOA, DHMBHPSM 4/21; Mosul: BOA, DHMBHPS 145/2, 146/69, and 146/70; Canik: BOA,

1920 are available.<sup>22</sup> Certain years, such as 1916-17, provide the total numbers of all the incarcerated under the age of nineteen within the empire.<sup>23</sup> Additionally, the names and information for nearly every incarcerated child under the age of nineteen within the entire empire still exist.<sup>24</sup>

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DHMBHPSM 5/1; Kastamonu: BOA, DHMBHPSM 145/56 and 53/34; the Hicaz: BOA, DHMBHPSM 3/36, Beirut: BOA, DHMBHPSM 5/9; Mamüretülaziz: BOA, DHMBHPSM 12/70, 14/65, and DHMBHPS 145/26; Edirne: BOA, DHMBHPSM 4/1; Yanya: BOA, DHMBHPSM 4/20; and Manastir: BOA, DHMBHPSM 6/27.

<sup>22</sup> For the total number of prisoners in the empire for the years 1912-1920 see for 1912: BOA, DHMBHPS 145/31; 1914: BOA, DHMBHPSM 12/38, 17/32, and DHMBHPS 149/45; 1916-17: BOA, DHMBHPS 143/93 and 96/54; 1918-1919: BOA, DHMBHPS 163/85; 1920: BOA, DHMBHPS 165/97. Prison statistics were not collected from the entire empire in 1913 as a result of the Balkan Wars, but also because the CUP was forced out of power in June 1912 and the entire prison reform program was suspended until the CUP regained power in January 1913 and the Balkan Wars were over later in 1913. Some Ottoman provinces in 1913 did submit their statistics, such as Istanbul and the Hicaz. In 1915, major restructuring was being carried out for the Ottoman Prison Administration's system of prison statistics collection and it appears that no general tabulation for all prisoners was completed, at least none has been found yet among the archival documents. However, a very informative document regarding the new prison statistics reporting procedure in 1915 is found in BOA, DHMBHPS 73/58.

<sup>23</sup> See BOA, DHMBHPS 143/93 for the general prison survey in 1916-17 and the documents which specify the total number of incarcerated children under the age of nineteen in the entire Ottoman see BOA, DHMBHPS 159/5.

<sup>24</sup> For the numbers and names of each incarcerated child for each province and administrative district within the Ottoman Empire in 1916-17 see Adana: BOA, DHMBHPS 158/66; Ankara: BOA, DHMBHPS 159/2; Aydın: BOA, DHMBHPS 158/2; Beirut: BOA, DHMBHPS 159/12; Bitlis: BOA, DHMBHPS 159/33; Canik: BOA, DHMBHPS 117/6; Diyarbakır: BOA, DHMBHPS 158/9; Halep: BOA, DHMBHPS 158/68; Hüdavendigâr: BOA, DHMBHPS 159/7; İstanbul: BOA, DHMBHPS 158/17; Kastamonu: BOA, DHMBHPS 158/57; Konya: BOA, DHMBHPS 158/63; Mamüretülaziz: BOA, DHMBHPS 159/4; Mosul: BOA, DHMBHPS 159/10; Sivas: BOA, DHMBHPS 158/69; and Suriye (Syria): BOA, DHMBHPS 160/69. There are also wonderful statistics regarding the names of incarcerated children under the age of nineteen who were pardoned in 1916-17. See BOA, DHMBHPS 108/16, 108/13, 108/27, 108/31, 159/16, and 159/36. A detailed analysis of these statistics related to incarcerated children in the Ottoman Empire and the treatment of children within Ottoman prisons shall appear in chapter eight.

## Crime and the Ottoman Prison Survey

The category of crimes was the first and arguably most important section of the questionnaire since the data collected on this topic drove the rest of the survey. The category 'Types of Crimes' (*Nev'i-i Ceraim*) was divided into two sections entitled '*Günha ve Kabahat Kısmı*' ("Section for Lesser Crimes") and '*Cinayet Kısmı*' ("Section for Serious Crimes").<sup>25</sup> The first section contained twenty-one separate categories dealing with less serious offences. Nineteen of the categories dealt with specific 'less serious' crimes for which prisoners had been convicted. The two remaining categories consisted of a general category for 'other *günha* and *kabahat* crimes' and a category for those prisoners accused of lesser crimes awaiting trial.

The second section ('*Cinayet Kısmı*') contained seventeen categories. Fourteen dealt with specific serious offenses for which prisoners were convicted. Similar to the '*Günha ve Kabahat Kısmı*' section, the second section also included a category for those prisoners awaiting trial for serious crimes. Under the second section there were two other categories. One of the categories contained the number of prisoners residing at the prison

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<sup>25</sup> There is no clear English translation for the Ottoman Turkish terms *günha*, *kabahat* ve *cinayet*, but very generally speaking *günha* and *kabahat* can be considered less serious crimes in comparison with *cinayet* crimes. *Günha* crimes carry a variety of punishments including a prison sentence from between one week to three years, fines, dismissal from office and discontinuance of salary, and even temporary banishment from three months to three years. A combination of these punishments may also be imposed as punishment for *günha* crimes. *Kabahat* crimes are the least severe and carry a punishment of incarceration lasting between twenty-four hours to one week or a fine not exceeding one hundred piasters or one Turkish Lira. They usually entail crimes associated with violation of civil and state codes on sanitation, etc. *Cinayet* crimes can very roughly be associated with felonies and they carried a prison sentence anywhere from three years to life imprisonment with hard labor, banishment, incarceration in a citadel, or execution. For an excellent explanation regarding the inadequacy of an accurate English translation of these words see Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, pp. 5-7.

awaiting trial from martial law courts and the other category, which was also the last of the second section, contained the total number of prisoners regardless of crime or status.

According to the IOPC, there were literally hundreds of *cinayet*, *günha*, or *kabahat* crimes that were punishable by incarceration. The Ottoman Prison Administration, however, only requested data on thirty-three different crimes. Some of the crimes were listed in a general form, such as theft, but most crimes listed on the Ottoman Prison Surveys were quite specific. A close analysis of these crimes, their relation to the 1911 revisions of the IOPC, and the number of criminals convicted of each of these crimes offers revealing insights into Ottoman society and CUP ideology regarding what criminal behavior represented threats to the ‘nation.’

The first section of the ‘Types of Crimes’ category labeled, ‘*Günha ve Kabahat Kısmı*,’ consisted of twenty-one categories listed in the following order:

1. Disrespecting civil servants, gendarme, and soldiers (*me'murin, zaptiye ve askere şetm ve hakaret*).
2. Aiding and abetting the escape of a convict and concealing habitual perpetrators of serious crimes (*mahbus kaçırmak ve ihfayı erbab-ı cinayet*).
3. Being without good character, i.e. a vagrant without skills or profession (*bila salahiyyet sanat-ı resmide bulunmak*).
4. Forgery of travel permits and passports (*mürur tezkeresi ve pasaport sahtekarlığı*).
5. Assault and battery (*darb ve cerh*).
6. Offering abortions and harmful medications (*iskat-ı cenin ve eczayı muzırta i'tası*).
7. The seduction and dishonoring of a virgin (*hetk-i ırz ve iğfal-i bakire*).
8. Indecent sexual behavior/adultery and sodomy (*fi'il-i şeni*).
9. The verbal and physical molestation of youth (*gençlere harf endazlık ve elile sarkıntılık*).
10. Unlawful arrest and incarceration (*usul ve nizam haricinde habs ve tevkif*).
11. Switching, concealing, and stealing a child and kidnapping a girl (*çocuk tebdili, sirkati ve gaybi ve kız kaçırmak*).
12. Providing false witness, oath, or evidence during a judicial proceeding (*umur-ı hukukiyede yalan şehadet ve yemin ve tehdidamiz mektup*).
13. Vituperation, insulting, slandering (*şetm ve hakaret ve iftira*).
14. Fraud (*dolandırcılık*).

15. Theft (*sirkat*).
16. Breach of confidence/embezzlement (*emniyet-i suiistimal*).
17. Wasting or destroying a person's goods, property, and documents/papers (*nasın malını ve emlakını ve evrakını iza'a ve telef etmek*).
18. Opposition to regulations, announcements, and the warnings of an officer of the gendarmerie (*nizamât, bildiri ve tenbihat-ı zaptiyeye muhalefet*).
19. Miscellaneous lesser crimes and misdemeanors (*cenîha ve kabahat-i mütenevvî'a*).
20. Debtors (*medyun*).
21. Those arrested for lesser crimes and misdemeanors awaiting trial (*mevkufîn*).<sup>26</sup>

These lesser crimes (*günha* and *kabahat*) carried a much lighter sentence than those of the second section (*cinayet*) and constituted just over a third of the Ottoman Empire's 1911-12 prison population.<sup>27</sup>

Under the second section ('*Cinayet Kısmı*') fourteen crimes were listed in the following order, together with three other categories:

1. The harboring of highway robbers/bandits and embezzling state goods (*kat-i tarik yataklığı, zimmete emval-i miri geçirmek*).
2. Premeditated homicide/ first degree murder ('*amden katl*').
3. Homicide without premeditation (*min gayri ta'ammüdden katl*).
4. Willful homicide without premeditation (*katl-i kasdi*).
5. Severe assault and battery and cutting off of a body member/limb/organ (*cerh ve darb-i şedid ve kat'-i uzuv*).
6. The intentional or forced aborting of a fetus (*cebren veya kasden iskat-i cenin*).
7. Forced indecent sexual behavior/rape or sodomy (*cebren fi'il-i şeni'*).
8. Forcibly abducting a female who has reached puberty/usually thirteen or fourteen years old (*cebren baliğa kaçırmak*).
9. The forgery of seals and official items (*mühür ve enva'-ı resmîye sahtekarlığı*).
10. Arson (*kundakçılık*).
11. Theft with severe conduct and injury (*mu'amele-i şedide icra ve cerh ile hırsızlık*).
12. Theft via breaking and entering by breaking the door or breaching the wall (*meskun mahalden duvar delerek veyahut kapı kırarak hırsızlık*).
13. Theft carried out with severe conduct but without injury (*mu'amele-i şedide icrasıyla bila cerh hırsızlık*).
14. Possession of weapons forbidden by the Ministry of War (*esliha-i memnu'a-i divan-i harbi*).

<sup>26</sup> BOA, DHMBHPSM 8/3 doc. 13.

<sup>27</sup> BOA, DHMBHPS 145/31.



15. Prisoners awaiting trial from martial law courts (*misafirhaneye vurud iden Divan-i Harb-i Örfiden*).
16. Those arrested for serious offences awaiting trial (*mevkufin*).
17. Total (*yakut*).<sup>28</sup>

Those convicted of or awaiting trial for serious offenses made up almost two thirds of the Ottoman Prison population of 1911-12.<sup>29</sup>

The vast majority of these crimes listed in the prison survey questionnaire deal with crimes related to property, life, honor, and social order. Eighteen of the above crimes deal in some way with violent behavior against an individual. Fourteen crimes deal with theft or fraud in one form or another. Nine deal with issues related to honor in terms of character and sexual purity. Nine of the crimes deal with issues related to function, authority, and the power of the state. Finally, all of the offenses, in one way or another, deal with crimes against social order, discipline, and control. None of these crimes, however, are associated with espionage, bribery, the selling of government secrets, dereliction of duty, or corruption. The “*Cinayet*” section does not even have a catchall category similar to the one possessed by the “*Günha ve Kabahat*” section in which serious offenders of other crimes not included in the questionnaire could be listed. The CUP was interested in collecting information on very specific types of crimes and the number of those who perpetrated them. It should not be surprising that these types of crimes collected by the Ottoman Prison Surveys were the ones most substantially altered or created by the 1911 penal code reforms.

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<sup>28</sup> BOA, DHMBHPSM 8/3 doc. 13.

<sup>29</sup> BOA, DHMBHPS 145/31.

## **Penal Code Revisions, Crime Statistics, and CUP Ideology**

There are, of course, deep connections between the 1911 revisions of IOPC, the Ottoman Prison Survey, the resulting crime statistics, and CUP ideology. This is demonstrated no more clearly than in the CUP's intent to consolidate ever more power into the hands of the state and limit the influence and power of Islamic law, particularly regarding crime, individual rights, and the protection of property. CUP motives regarding increasing the penetration of the state into the lives of the population were also at work. This deep connection is demonstrated by the convergence of the 1911 penal code revisions, the influence of those revisions on the Ottoman Prison Survey, particularly in relation to crimes listed on the questionnaire and for which statistics were collected, and the actual statistics themselves. Through this analysis, CUP ideology and pragmatism shall be more fully explicated regarding its desire for greater power and authority, the protection of that power and authority, the abrogation of Islamic law in adjudicating criminal matters, those crimes and population segments that threaten the modernization and formation of a strong and independent nation-state, the protection of individual rights and property, and finally, the maintenance of social control and public order. This section shall be divided into four subsections each dealing with major crimes listed on the prison survey, which were substantially revised in the IOPC. Those sections are 'Crimes against State Officials,' 'Arson,' 'Crimes against Honor,' 'Theft,' and 'Violent Crimes.'

## **Crimes against State Officials**

There are two crimes listed on the Ottoman Prison Survey dealing with offenses against state officials. Those crimes were ‘Disrespecting civil servants, gendarme, and soldiers’ and ‘Opposing regulations, announcements, and warnings of the gendarmerie/police.’ Regulations and punishments associated with these crimes were contained in Articles 112-116 of the IOPC and these articles were significantly augmented on 4 June 1911. The offences and penalties were more clearly delineated. The only article not repealed and substituted with a new version was Article 112. Article 112 deals with disrespecting or maligning civil servants and its associated punishments. Article 113 concerns the crime of disrespectful, disruptive, or abusive behavior and intimidation against soldiers and police and the associated punishments. This article was repealed and replaced by a similarly worded article. The punishment, however, was doubled from one week-one month’s incarceration to fifteen days-six months.

Article 114 was expanded to cover low ranking gendarme together with police and soldiers. In its earlier version, this article only related to the beating of one of these officials. As a result of the 1911 revisions, however, it now included offenses related to any kind of compulsive treatment, threats, or violence against these government officials. The punishment for such an offense, however, was reduced from six months-two years incarceration to six months-one year.

Revisions were made to Article 115 in order to stipulate more clearly the punishments to be inflicted on the perpetrator. The previous version made the

punishment for wounding any government official charged with carrying out his duty double the punishment of a normal assault conviction. In the 1911 version, the punishment was clearly delineated as “imprisonment for six months to three years.”<sup>30</sup>

Article 116 was the most significantly revised of all the articles dealing with ‘Crimes against Government Officials’ listed on the prison survey questionnaire. The 1858 version of Article 116 reads as follows:

If those who are officially summoned to the Courts or Councils refuse to come without any acceptable excuse, there is [to be] taken from them a fine of from one white Mejideh piece to five gold Mejidieh pieces, and when this refusal goes on being repeated the penalty is also increased and taken fold by fold.<sup>31</sup>

This was replaced in 1911 by the following version of Article 116:

Those who dare to exercise compulsive or violent treatment or to do any other effective act in order to attack or to impede the legal acts of executive officers, or of an armed force, or of collectors, or of mubashirs or policemen bearing writs of summons or arrest, or of officers delegated by the Courts or of officers of the administrative or judicial police while they are serving or putting into execution the laws or regulations of the State or the orders of the Government or the decisions or judgments of the Courts or the provisions of writs of summons or arrest or the writs of invitation or citation or other judicial documents, are punished as follows:

First: if these acts are committed by more than twenty persons and all of them are or one from amongst them is armed openly punishment of imprisonment for from three months to three years is awarded; and in the case of there being no armed person among them punishment of for from one month to two years is inflicted on such persons.

Second: if the said offences are committed by from three to twenty persons at the most and likewise even though one of them is armed openly as aforesaid punishment of imprisonment for from fifteen days to one year is inflicted. If there is found no one armed among them they are punished with imprisonment for from one week to six months.

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<sup>30</sup> Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, pp. 86-92.

<sup>31</sup> *Ibid.*, p. 91.

Third: if the above mentioned acts are committed by one or two persons openly armed they are imprisoned for from one week to six months; and if these persons are unarmed they are imprisoned for from twenty-four hours to one month.

If acts necessitating more severe punishment have been perpetrated in the course of the commission of the offences of opposition and disobedience stated in these paragraphs the punishment requisite by law is inflicted on every one of the perpetrators of such acts.<sup>32</sup>

Nowhere in the new version of Article 116 is there anything to do with failure to show in court. However, it does deal with organized protests against authority. Most significantly, it deals with tax collection and any other official act being carried out by authorized authorities. The punishments are gradated according to the size of the protesting party and whether or not the party possessed weapons.

It is ironic, but not surprising, that such an article would be written and passed by the Committee of Union and Progress. In fact, the CUP armed, organized, instigated, and directed a series of violent protests and uprisings against government officials attempting to collect two very unpopular taxes prior to the Revolution of 1908. These 1905-07 tax riots occurred in various places around the empire, including Erzurum, Trabzon, Kastamonu, Mosul, and Sivas.<sup>33</sup> With the passage of this new article to the IOPC in 1911, the CUP and Ottoman Parliament were further strengthening the laws passed in 1909, which outlawed strikes and public protests, with stricter punishments. It appears

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<sup>32</sup> Ibid., pp. 91-92.

<sup>33</sup> For a detailed discussion regarding these tax revolts organized by the CUP during the period 1905-1907 see Aykut Kansu, *The Revolution of 1908 in Turkey* (Leiden: EJ Brill, 1997), pp. 29-72. See also Donald Quataert, *Social Disintegration and Popular Resistance in the Ottoman Empire, 1881-1908 : Reactions to European Economic Penetration* (New York: New York University Press, 1983), 205 p., "The 1908 Young Turk Revolution: Old and New Approaches," *Middle East Studies Association Bulletin*, 13/1 (July 1979), pp. 22-29, and "The Economic Climate of the 'Young Turk Revolution of 1908,'" *Journal of Modern History*, 51 (1979), pp. D1147-D1161.

that the masses had served their purpose in assisting the 1908 Revolution and in the reversal of the 1909 counter coup, but now had to be controlled in order to maintain social order and the power of the new regime. Obviously, social control, discipline, and order were at the heart of the new version of Article 116 passed in 1911.

The revisions made to Articles 113-116 of the IOPC clearly reflect the various motives and ideologies of the CUP. First, the CUP wanted to clearly stipulate the punishments of these crimes. Second, it attempted to limit the arbitrary nature of the punishments by either lengthening or shortening the periods of incarceration. Third, some of these revisions demonstrate the CUP's desire to protect government officials, but even more importantly soldiers and police while they were performing their duties. Fourth, these revisions reflect the CUP's interest and almost obsession with protecting the new government's and its own power by limiting public protest and imposing new punishments for civil disobedience. The changes in just these four IOPC articles offer these important insights into CUP ideology and vision for the empire, notwithstanding the very low numbers of individuals who were actually arrested, convicted, or served time for these crimes during the Second Constitutional Period.

The number of prisoners arrested, convicted, and incarcerated for 'Crimes against State Officials' was very low in comparison to other crimes for which statistics were collected during the Ottoman Prison Surveys. In the provinces (*vilayet*) of Istanbul, Beirut, Baghdad, and the Hijaz, and in the administrative district (*sanjak*) of Canik, there was a total prison population in 1911-12 of 15,091. This represented over half of the

total prison population of 27,700.<sup>34</sup> Out of these 15,091 prisoners only three hundred had been convicted of ‘Crimes against government officials.’<sup>35</sup>

The vast majority of those convicted of and incarcerated for ‘Crimes against State Officials’ served very light sentences. Out of the three hundred prisoners, 260 were either pardoned or received punishments of one day-one month incarceration. The other forty prisoners received varying sentences ranging from one month-one year, with just a hand full of prisoners being incarcerated for up to a maximum of two years.<sup>36</sup> Generally speaking, these light punishments indicate that the violations were not of a serious nature. Unfortunately, without the documents from the actual court cases it is impossible to know the exact nature of these prisoners’ crimes.

Only the administrative district (*sancak*) Canik appears to be an exception to this trend of low occurrence for ‘Crimes against State Officials.’ Out of its 1911-12 prison population of 1,779, one hundred individuals were convicted of ‘Disrespecting civil officials, gendarme, and soldiers’ in 1911-12. It is not clear why there were so many arrests and convictions for such an uncommon crime. The remainder of the prisoners (eight in all) served jail time of three months to a year. Therefore, even though there were many convicted of this crime in Canik, ninety-two percent were pardoned. In the

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<sup>34</sup> For the total number of prisoners in the Ottoman Empire for 1911-12 broken down according to severity of crime, i.e. lesser and serious crimes (*günha* and *kabahat* vs. *cinayet*) and those awaiting trial see BOA, DHMBHPS 145/31.

<sup>35</sup> For the complete 1911-12 prison statistics for Istanbul, Beirut, Baghdad, the Hicaz, and Canik see BOA, DHMBHPSM 4/4, DHMBHPSM 5/9, DHMBHPSM 4/21, DHMBHPSM 3/36, and DHMBHPSM 5/1 respectively.

<sup>36</sup> Ibid. The breakdown of the prison population in 1911-1912 for the provinces of Istanbul, Beirut, Baghdad, the Hicaz, and for the administrative district of Canik are as follows: Istanbul: 5,738, Beirut: 4,586, Baghdad: 2,528, The Hicaz: 460, Canik: 1,779.

end, Canik fits the general trend of light punishments meted out for this crime.<sup>37</sup> These results, i.e. the low number of convictions and the light sentences, appear to be staggeringly low for a crime that was so heavily modified by the CUP in June of 1911.

Of those prisoners who served time for ‘Crimes against State Officials’ the vast majority of them were artisans/guildsmen (eighty-two).<sup>38</sup> In fact, the total number of artisans/guildsmen was ten more than the total of the prisoners from all the other professions combined. The five next closest occupations/professions were farmers (eighteen), the unemployed (eighteen), factory-workers (seventeen), government officials (nine), and five servants. The last three prisoners convicted and incarcerated for committing ‘Crimes against State Officials’, for whom socio-economic status/occupation was recorded, consisted of a landowner, merchant, and a ship captain or crew member.

The high ratio of artisans/guildsmen among those convicted and sentenced for ‘Crimes against State Officials’ is an indicator of existing tensions between this segment of the work force and the state. It is important to note that notwithstanding the low numbers of prisoners convicted of this crime, the Ottoman Prison Administration continued to collect statistics for it until the end of the empire. Obviously, it was important to the CUP to continue tracking the numbers of prisoners arrested, convicted, and serving time for disturbing the peace and attempting to abrogate the state authority.

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<sup>37</sup> The results of the 1912 prison survey for Canik Sancağı are found in BOA, DHMBHPSM 5/1.

<sup>38</sup> Information regarding the socio-economic status/occupation of those pardoned for ‘Crimes against State Officials’ were not recorded in the Prison Survey questionnaire for 1912.



## Arson

Another crime which was both altered significantly in 1911 and for which statistics were collected was 'Arson.' The various offenses associated with 'Arson' are contained in Articles 163-167 of the IOPC.<sup>39</sup> Only Article 166 was modified by the Ottoman Parliament in 1911, but its extensive modification demonstrates a continued concerted effort by the CUP to monopolize the use of force through controlling the manufacture of munitions. The original Article 166 read as follows:

In any case where the fire which takes place becomes the cause of the destruction of one or more lives on its breaking out at the localities burnt, those who have placed the incendiary bundle are unrestrictedly punished with the punishment of death.<sup>40</sup>

This article was first "amplified" on 25 September 1864 with the following text:

If there is found at a place contrary to regulation gunpowder for sale it shall be seized and the owner and keeper of the gunpowder shall undergo the punishment of kyurek [hard labor] for a period of three years. If fire breaks out and damage occurs from the taking fire of the gunpowder found at the place prohibited by regulation the owner of the gunpowder shall be placed in kyurek for from three years to five years according to the amount of damage and for from ten years to fifteen years if destruction of life also takes place.<sup>41</sup>

On 26 October 1903 a second addendum was added to the text of Article 166:

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<sup>39</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 118-23.

<sup>40</sup> *Ibid.*, p. 121.

<sup>41</sup> *Ibid.*

Those who manufacture contrary to regulation or import by way of smuggling gunpowder or cartridges, and their accomplices, are placed in kyurek for a period of three years.<sup>42</sup>

On 24 November 1910 a third addendum was added to the text of Article 166:

Whoever, without obtaining permission from the department concerned, manufactures within the Ottoman territories gunpowder or other explosive substances or prohibited weapons or cartridges for them or imports into the Ottoman territories from foreign territories gunpowder or other explosive substances or prohibited weapons or cartridges for them, or becomes a medium for this sort of smuggling, or transports or imports from one place to another place within the Ottoman territories smuggled gunpowder or other explosive substances or prohibited weapons or cartridges for them is, in addition to the confiscation of such, put in prison for from two months to two years, and a fine of from five Lira to fifty Lira is taken. Those who, without permission, carry or sell such prohibited cartridges, weapons, gunpowder, or explosive substances are also punished with imprisonment for from one month to six months and by taking a fine of from one Lira to ten Lira. For the purposes of the Penal Code “prohibited weapons” mean generally State or military weapons and revolvers of which the barrels are more than fifteen centimeters.<sup>43</sup>

This addendum was put into force only on a temporary basis. It was later superseded and made permanent by another addendum issued on 4 June 1911. This fourth addendum was added to the text of Article 166 and superseded the previous three, but the only changes made to the 1910 addendum by the 1911 was to replace the “Lira” with “Mejidieh gold piece/s.”<sup>44</sup>

The changes the CUP made to Article 166 in 1910 and 1911 represent some very significant addenda. This article went from dealing only with punishment for death

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<sup>42</sup> Ibid., p. 122.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid., p. 123. See *Redhouse Sözlüğü*, pp. 743 (*mecidiye*) and 712 (*lira*).

caused by arson to dealing with the illegal purchase, transport, selling, and manufacturing of gunpowder, other explosives, weapons, and associated supplies. Throughout the Second Constitutional Period, enormous upheaval and violence enveloped the entire empire. Securing a monopoly on the legitimate use of violence by the CUP was obviously an important and necessary part of imperial reform and survival.

Very few individuals were ever arrested, convicted, or sentenced for this crime according to the prison surveys. One example is in the *sancak* of Canik during 1911-12. A thirty-four year old literate, single male, employed as an artisan/guildsmen, and either a Greek Orthodox or Armenian Christian, was convicted of arson and sentenced to life in prison with hard labor.<sup>45</sup> Unfortunately, it is impossible to know the exact nature of his crime. Additionally, in 1911-12 nineteen individuals in Istanbul were convicted of Arson and it appears that they were all sentenced to three to four years of hard labor.<sup>46</sup> Notwithstanding the low number of convicts guilty of arson, the changes to the IOPC and the collection of statistics related to this crime still represents an important area of concern for the Ottoman Prison Administration, the Ministry of the Interior, and the CUP.

### **Crimes against Honor**

Another section of the IOPC which was heavily modified and revised by the Ottoman Parliament and CUP in 1911 and for which specific statistics were collected in

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<sup>45</sup> BOA, DHMBHPSM 5/1 doc. 6.

<sup>46</sup> BOA, DHMBHPSM 4/4 doc. 3.

the Ottoman Prison Survey dealt with crimes against an individual's honor, including sexual offenses, perjury, calumny, and vituperation. Crimes against an individual's honor are contained in Articles 197-215 and constitute Parts III-VI of Chapter Two of the IOPC.<sup>47</sup> Although these crimes do not represent a significant statistical number of actual convictions and incarcerations, they did constitute a significant portion of the crimes for which statistics were collected. Out of the thirty-three crimes listed on the Ottoman Prison Survey, ten crimes related to this offence. It was also an area in which the IOPC was heavily modified.

The most significant modifications relating to 'Crimes against Honor' were Articles 197, 201, 206, 213, and most extensively Article 214. Article 197 concerns the commission of the 'abominable act', i.e. "unlawful unnatural or natural intercourse, with a minor."<sup>48</sup> In the original article of the IOPC adopted in 1858 a child over the age of eleven was held accountable for the action and was subject to punishment. This standard for adulthood was based on Islamic law and when a child attained puberty. The age of discernment or accountability was raised to fourteen years old in 1911.<sup>49</sup> The significance of this change in regards to changing notions of childhood in the late Ottoman Empire and its relationship with penal policy and practice shall be dealt with

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<sup>47</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 149-70.

<sup>48</sup> Ibid., pp. 149-50.

<sup>49</sup> Regarding Islamic Law and determining the age of accountability in the nineteenth and early twentieth century Ottoman Empire see *The Mejelle*, translated from the Turkish text by C.R. Tyser, D.G. Demetriades, and Ismail Haqqi Efendi (Kuala Lumpur, Malaysia : The Other Press, 2001), Articles 985-987; Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 26-30, and Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (Cambridge: Cambridge University Press, 2005), pp. 20-21.

more fully in chapter six, however, this constitutes another example of CUP attempts to restrict the authority of Islamic law and to standardize penal law and accountability.

The revisions and addenda adjoined to Article 201 are surprisingly progressive for anywhere in the world in the early twentieth century. Originally Article 201 only dealt with the corruption of youth, for which the Ottoman Prison Survey of 1912 specifically collected statistics, however in 1860 this article was expanded to include adultery and its related punishments. The punishments called for in the 1860 version were very one sided and harsher on a wife who committed adultery than a husband. This revision mirrored exactly the 1810 French Penal Code. In 1911, however, the punishments of incarceration were made exactly equal for both the wife and husband, but unlike the wife taken in adultery, in addition to the jail time, the husband also had to pay a fine.<sup>50</sup>

Statistics associated with the crime of “Indecent Sexual Behavior” were also very low, but common on the Ottoman Prison Surveys. According to the available 1912 Ottoman Prison Survey results, the vast majority, over ninety-five percent of all arrested, convicted, and incarcerated for ‘Indecent Sexual Behavior’ were males. The number of males to females convicted for this crime was 325 males to thirty-one females.<sup>51</sup> This statistic has several possible meanings. One, men were arrested, convicted, and punished

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<sup>50</sup> Perhaps this was the case because women tended to have very little money of their own, particularly if they were married and not part of the labor force. Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 152-56.

<sup>51</sup> The references for 1912 Ottoman Prison Survey statistics are Istanbul: BOA, DHMBHPSM 4/4; Baghdad: BOA, DHMBHPSM 4/21; Bitlis: BOA, DHMBHPS 145/8 and 145/78, Mosul: BOA, DHMBHPS 145/2, 146/69, and 146/70; Canik: BOA, DHMBHPSM 5/1; Kastamonu: BOA, DHMBHPSM 145/56 and 53/34; the Hicaz: BOA, DHMBHPSM 3/36, Beirut: BOA, DHMBHPSM 5/9; Mamüretülaziz: BOA, DHMBHPSM 12/70, 14/65, and DHMBHPS 145/26; Edirne: BOA, DHMBHPSM 4/1; Yanya: BOA, DHMBHPSM 4/20; and Manastir: BOA, DHMBHPSM 6/27.

for committing adultery more than women. Two, the crime of adultery was not strongly prosecuted. Three, men typically dealt with adulterous wives or female relatives in an extrajudicial manner. Finally, perhaps sodomy was the more commonly prosecuted crime by Ottoman officials.

Article 206 represents another example of the CUP in 1911 completely rescinding the previous versions of the article and replacing it with a highly modified and more comprehensive version of the 1858 article. All versions of the article deal with the crimes of kidnapping children and girls at the age when puberty was supposed to start. The most significant changes carried out in 1911 consisted of first, expanding the victims of kidnapping to include adults as well as children. Second, the victims of the crime included both males and females, whereas the original version only stipulated females. Third, even though victims now included both sexes, female victims were still the primary focus of the article and the associated punishments. Fourth, the ages of childhood and accountability were also changed from being determined by Islamic law to being set by the state without reference to Islamic law. Finally, unlike the 1858 version of Article 206, the 1911 completely abrogated all *shari'a* authority to adjudicate any portion of cases dealing with these types of 'Crimes against Honor.' In other words the state wholly appropriated all authority over the crimes associated with Article 206.<sup>52</sup>

Statistics for these crimes were collected by all Ottoman Prison Surveys beginning in 1912 and continuing until the end of the World War I. However, on the questionnaire, the crime did not include kidnapped adults, but rather focused on the

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<sup>52</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 159-62.

kidnapping of children of both sexes and the kidnapping of females near the age of puberty, but not yet considered an adult (*mashriqa*). The first crime dealing with the kidnapping of children was considered a lesser crime (*günha*) and the second was considered a serious offense (*cinayet*).<sup>53</sup> This was a crime for which very few were incarcerated during the Second Constitutional Period, but notwithstanding its rarity, statistics for this offense continued to be kept until the end of the empire.

Article 213 of the IOPC dealt with crimes against an individual's honor, specifically the offense of slander. In the original version of the article, differences were made between slandering a normal civilian and a government official with the punishment for slander against a government official carrying a much heavier punishment. The 1911 version made no distinction between slandering a civilian and a government official in terms of gravity or punishment. In fact, government officials were not even mentioned in the 1911 article.<sup>54</sup>

The crime of vituperation and its associated punishments was the subject of IOPC Article 214. The original 1858 version was very short and non-descript. In fact it was less than a paragraph long and stipulated the following:

If a person utters defamatory words with regard to or reviles another person not by imputing a particular matter but by ascribing some vice or otherwise, he is imprisoned for from twenty-four hours to one month or in substitution therefore a fine of from half a Mejidieh gold piece to three Mejidieh gold pieces is taken.<sup>55</sup>

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<sup>53</sup> See BOA, DHMBHPSM 8/3 doc. 13.

<sup>54</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 164-66.

<sup>55</sup> *Ibid.*, p. 166.

In 1911, the Ottoman Parliament rescinded the 1858 version and replaced it with a substantially larger and more descriptive article, stipulating in minute detail the types of vituperation possible and the associated punishments for each type. The following quote is the complete English translation of the 1911 text

Whoever commits disparagement of another person by imputations ascribing a particular offence or stating a particular matter not forming an offence, calculated to expose him to the contempt or enmity of the people or to break his honour or reputation, he is imprisoned for from two months to one year.

It is the condition that disparagement in order to necessitate punishment should take place in one of the ways shown below:--

First: it must be public, in the presence of the person attacked, in an assembly or in a place where other persons would be able to hear.

Second: it must be made in the absence of the person attacked but by holding communication with a good many persons collected together or separated.

Third: it must take place by writing, drawing, croquis or caricature published or exhibited to the public or distributed to a party of persons, or by open letter or postcard sent directly to the person attacked.

Fourth: it must be committed by daily or periodical journals or pamphlets of all sorts or by printings and means of publication of all sorts.

If legal proceedings have been taken against the person, who has been subjected to attack by disparagement, in respect of the matter forming the subject of the disparagement and it is proved that the offending person has made imputations knowingly that the person attacked is guiltless the disparagement changes into slander and the tenor of the Article of the law with regard to slander is conformed with.

If the person committing the offence of disparagement desires to prove the truth or notoriety of the act imputed by him against the person attacked for the purpose of proving himself free from guilt this claim of his is not admitted. But if, however, the person attacked is an official of the State and the act imputed is connected with the duty of his office or if the subject of the disparagement, against whatever person it may be, is a legal offence, the claim to prove the truth thereof is admitted and in such case if the act imputed is proved or the person who is attacked is convicted in consequence of such act the punishment for disparagement lapses; in the contrary case up to as much as the maximum of the punishment can be awarded.

Whoever commits the act of vituperation, by attacking the honour or reputation or dignity of a person in whatsoever way it may be, without ascribing any particular act, is imprisoned for from fifteen days to six months, or, in lieu of this, a fine of from five Liras to fifteen Liras is taken.

It is a condition that the offence of vituperation, too, be committed in one of the four ways set forth with regard to disparagement.

The claim which may take place on the part of the perpetrator of vituperation regarding the proving of the truth of the imputations made is absolutely rejected. But if, however,



the subject of the vituperation is an offence under the law the perpetrator of the offence is at liberty to convert this into a case of a special matter by designating and specifying the same; and in that case no further proceedings can be taken concerning the vituperation, and the provisions regarding disparagement take effect with regard to it.

Even though the name of the person attacked may not have been explicitly mentioned or the imputations may have been made in a dubious manner in the commission of the offences of disparagement or vituperation, the matter will be treated as if both a name had been mentioned and the imputations had been clearly stated, if there appear signs to such an extent as to admit no doubt, having regard to the manner of the commission of the offence, as to the true nature of the imputations and as to their reference to the person of the plaintiff.

The individual who, apart from disparagement or vituperation, insults a person by word of mouth, by act in his presence or by a letter addressed to him or intended to be brought to his knowledge or simply maligns or makes insults by some special sign or by some rude treatment, is imprisoned for from twenty-four hours to one month, or a fine up to as much as five Liras is taken.

If the person attacked has by his own unjust action provoked the insult taken place or after being subjected to insult he too has insulted in return or has accepted an apology the Court can reduce by from one-third to two-thirds or even remit entirely the punishment of both or only of one of the parties according to the requirement of the case.

The taking of proceedings with regard to the offences set forth in this Part depends on the person attacked instituting a personal action according to the rule; but nevertheless in cases other than those of slander the action of general rights also lapses by the plaintiff's desistance from the action after having instituted the action.

The complainant can, together with instituting an action and besides demanding the making good of the material loss sustained by him in consequence of the offence committed against him, claim as much pecuniary compensation as he may wish in return for the moral loss as well, which compensation is assessed and awarded by the Court according to the importance and violence of the offence and the social position of the person attacked.

In the cases in which the offence is proved and the punishment lapses the claim for compensation is rejected.

Those provisions of the Press Law dated 16 July, 1325 [28 July 1909] which are repugnant to these Articles are repealed.<sup>56</sup>

It should be clearly evident that from the sheer length and minute detail of the 1911 version of Article 214 that vituperation was a key concern for the Ottoman Parliament and the CUP. It is hard to fathom why it was such a passion for them, but perhaps the unkind press and counter coup gave impetus to such action.

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<sup>56</sup> Ibid., pp. 167-70.

The CUP was not above using strong arm tactics to pressure, intimidate, and even assassinate its detractors and rivals. The 1912 general election which occurred less than a year after these extensive revisions to the IOPC and three months after the completion of the Ottoman Prison Survey is a clear example of the CUP's strong arm electioneering tactics.<sup>57</sup> Regardless of the reasons for such a detailed and extensive reformation of Article 214 on vituperation, it should be noted that Article 214 was the most revised of all the IOPC articles in 1911. This article and its revisions demonstrate yet again CUP desires to control criticism and to consolidate and control its power.

In the Ottoman Prison Survey the crimes of slander and vituperation were listed under the same heading and their statistics combined. It is therefore, impossible to distinguish between these two closely associated offences as tabulated by the prison questionnaires.<sup>58</sup> The crimes of slander and vituperation had a moderate rate of incarceration during the Second Constitutional Period. In each of the provinces and administrative districts previously mentioned (Baghdad, Hijaz, Istanbul, Beirut, and Canik) there were only 423 out of 15,091 total prisoners convicted of slander and vituperation in 1911-12. Over ninety percent of these prisoners received and served prison sentences of twenty-four hours to one month.<sup>59</sup>

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<sup>57</sup> See Ahmet Feroz's *The Young Turks: The Committee of Union and Progress in Turkish Politics 1908-1914* (Oxford: Clarendon Press, 1969), pp. 92-120 and Erik Zürcher, *Turkey a Modern History*, 5<sup>th</sup> ed. (London: I.B. Tauris, 2001), pp. 112-14.

<sup>58</sup> BOA, DHMBHPSM 8/3 doc. 13.

<sup>59</sup> For the statistics of the 1911-12 Ottoman prison survey for the Canik Sancak and the provinces of Istanbul, Baghdad, Beirut, and the Hicaz see BOA, DHMBHPSM 5/1, 4/4, 5/9, 4/21, and 3/36.

Their crimes could not have been too serious especially since the maximum penalty for felony (*cinayet*) slander was ten years hard labor. If slander or vituperation were of a less serious offense (*günha*) the maximum penalty was between one and three years incarceration.<sup>60</sup> Therefore, based upon the results of the prison survey indicating the prevalence of short prison sentences, most of those incarcerated for slander or vituperation were most likely perpetrators of vituperation. Regarding the socio-economic status/occupation of those convicted and incarcerated for these offences in the administrative regions of Istanbul, Beirut, Baghdad, the Hijaz, and Canik in 1911-12, at least eighty-eight percent were from the lower classes of Ottoman society, i.e. they were either artisans, factory workers, farmers, servants, or the unemployed.<sup>61</sup>

### Theft

The second most prevalent type of crime committed in the Ottoman Empire, according to the Ottoman Prison Surveys, was theft (*sirkat*) in all of its related forms, including petty theft, violent theft, breaking and entering, fraud, embezzlement, and robbery. Theft related crimes constituted seven of the thirty-three crimes listed on the Ottoman Prison Survey questionnaire. More prisoners were convicted and incarcerated for crimes associated with theft than any other crime except assault and battery (*derb ve*

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<sup>60</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 165-69.

<sup>61</sup> For the statistics of the 1911-12 Ottoman prison survey for the Canik Sancak and the provinces of Istanbul, Baghdad, Beirut, and the Hicaz see BOA, DHMBHPSM 5/1, 4/4, 5/9, 4/21, and 3/36.

*cerhi*). Not surprising, it was also a key area of revision in the IOPC by the Ottoman Parliament in 1911.

In fact, several of the IOPC's articles relating to theft were among the most heavily revised. For example, out of the twenty-six articles of the IOPC dealing specifically with theft, six were revised in 1911. These revised articles were 220, 222, 224, 225, 226, and 230. Articles 216-241 of the IOPC stipulate the various offenses associated with theft related crimes.<sup>62</sup>

The specific types of revisions made in 1911 to theft related articles include strengthening and expanding the crime of breaking and entering. In the 1858 version of Article 220, breaking and entering only referred to drilling through, digging under, or climbing a wall or by breaking down a door or window of a building of any sort. In 1911 this type of crime was expanded to include the breaking and entering into any type of closed structure, be it a building, safe, cupboard, or the like.<sup>63</sup> This inclusion greatly expanded the definition of this type of theft and was designed perhaps to protect private property more thoroughly.

Revisions to Article 222 in 1911 simply increased the punishment according to the circumstances under which theft was perpetrated, such as whether the theft occurred by night or day, whether the thief was armed or not, and whether the crime was

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<sup>62</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 171-90.

<sup>63</sup> *Ibid.*, p. 174.

committed by a servant or apprentice against her/his master. The punishment was increased from six months-three years to one-three years incarceration.<sup>64</sup>

Other revisions enacted in 1911 mainly dealt with imposing harsher penalties for theft related crimes. In many cases the stiffest penalty of incarceration was doubled. This was certainly the case for Articles 224, 225, and 226. An additional revision to Article 224 included expanding the items for which a certain punishment could be imposed for theft. These items were mainly agriculturally related, such as horses, other draft animals, and tools.<sup>65</sup>

On 4 June 1911, the most extensively revised theft related article was Article 230. The original version of this article dealt only with petty theft and pick pocketing and the associated punishments. This article, however, was expanded and revised several times over the course of the second half of the nineteenth century and the first two decades of the twentieth. The most significant changes dealt with expanding liability for these crimes to those who purchase, receive, and/or sell stolen goods and their associated punishments. Revisions also included the mitigation and reduction of punishments for those who voluntarily came forward regarding their crimes, confessed them and made restitution prior to court proceedings or arrest.<sup>66</sup>

Nine crimes, associated in one form or another with theft, were included on the questionnaire of the Ottoman Prison Survey. These included fraud, embezzlement,

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<sup>64</sup> Ibid., pp. 175-76.

<sup>65</sup> Ibid., pp. 177-79.

<sup>66</sup> Ibid., pp. 180-83.

breaking and entering, violent robbery, and others. The prison population of 1911-12 in the administrative regions of Istanbul, Bagdad, Beirut, the Hijaz, and Canik incarcerated for misdemeanor theft consisted of 2,596 out of a total population of 15,091.<sup>67</sup>

The protection of private property was a key facet of CUP penal reform as reflected by the amount of revisions made to the IOPC regarding theft and the number of prisoners arrested, convicted, and sentenced for theft related crimes. Protecting private property was important to Ottoman modernizing reforms dating back to 1839 and the commencement of the Tanzimat. It was particularly important to the CUP because the protection of private property was an essential facet to its attempts to foster an economic middle class, increase private enterprise, foster industrialization, and promote the economic development and independence of the Ottoman Empire.<sup>68</sup>

### **Violent Crimes**

The most prevalent crimes for which individuals were incarcerated in the Ottoman Empire were those associated with violence. In fact, the Ottoman Prison Survey collected statistics on fourteen different violent crimes committed by Ottoman prisoners. It should not be surprising that articles related to violent crimes against people, such as

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<sup>67</sup> See BOA, DHMBHPSM 3/36, 4/4, 4/21, 5/1, and 5/9.

<sup>68</sup> Regarding CUP economic policies and goals for the empire during the Second Constitutional Period see Zafer Toprak, *"Milli iktisat" 1908-1918* (Ankara: Yurt Yayınları, 1982), 464 p., *İttihad-Terraki ve Cihan Harbi: Savaş Ekonomisi ve Türkiye'de Devletçilik, 1914-1918* (Istanbul: Homer kitabevi, 2003), 502 p., and *Milli İktisat, milli burjuvazi* (Istanbul: Tarih Vakfı Yurt Yayınları, 1995), 255 p. For a more detailed discussion of CUP economic policy and reform and what role prisons played see chapter five.

threats, physical assaults, and homicide, found in the IOPC were among those most substantially altered by the Ottoman Parliament on 4 June 1911. The IOPC contains twenty-four articles related to violent crimes. They are Articles 168-191.<sup>69</sup>

The first article related to violent crime to be amended in 1911 was Article 170. The original article stipulated the death penalty for premeditated homicide (*'amden katl*). The 1911 version was amended to include the death penalty not only for those convicted of premeditated homicide, but also for those who willfully kill (*katl-i kasdi*) their “ancestors of either sex even though without premeditation.”<sup>70</sup> This is significant because the changes made to Article 170 when combined with the changes made Article 179 (also changed in 1911) were the first two articles to make violence against an ancestor of either sex a crime adjudicated in state criminal courts (*Nizamiye Mahkemeleri*) rather than in *shari'a* courts. This is an important example of the CUP centralizing more power over the family within the hands of the state rather than leaving it in the unregulated hands of Islamic law and courts. It is also an important example of the state attempting to gain more power over all facets of Ottoman life.<sup>71</sup>

Regarding homicide much more revealing and significant changes were made to Article 174. The original text of Article 174 read as follows:

If a person has killed an individual without premeditation he is placed in *kyurek* for a period of fifteen years; but if this matter of destruction of life has taken place while

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<sup>69</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 124-45.

<sup>70</sup> *Ibid.*, p. 125.

<sup>71</sup> *Ibid.*, pp. 133-35.

committing another Jinayet [*cinayet*] either before the commission or after the commission, or for the sake of committing a Junha [*günha*], the person destroying life is punished with the punishment of death according to law.<sup>72</sup>

The 1911 article clarified and greatly expanded the 1858 version regarding acts of homicide and their associated punishments. Most significantly, this new article provided greater protection for elected and appointed government officials while performing their duties. The text reads as follows:

If a person kills an individual willfully without premeditation he is put in kyurek for a period of fifteen years. But if this act of destruction of life has been committed, firstly:--against one of the members of the National Council or State officials while in the state of performing duty or in consequence of the duty performed by them: secondly:--if it has been committed by carrying out torment or torture or if it has taken place against more than one person; the perpetrator thereof is put in kyurek perpetually.

The perpetrator of an act of killing committed for preparing or facilitating or carrying out an offence or for securing the flight or the avoidance from punishment of the principal or secondary perpetrator of the said act is put to death. If, by the effect of beating committed spontaneously unaccompanied by an intention to kill or by wounding effected by instruments which do not cause destruction of life, the beaten or wounded person dies, the perpetrator of it is put in kyurek temporarily for not less than five years.<sup>73</sup>

Other articles changed in 1911 associated with homicide deal with greater punishments for those who are accomplices to a homicide.<sup>74</sup> Articles 177, which dealt with assaults that result in the loss of use of a bodily member, was further strengthened and clarified in 1911. Punishment now included the payment of medical expenses and

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<sup>72</sup> Ibid., pp. 127-28.

<sup>73</sup> Ibid., pp. 128-29.

<sup>74</sup> See Article 175 of the IOPC in Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, p. 129.



incarceration of not less than six years hard labor.<sup>75</sup> Other articles associated with assault and homicide that were augmented in one way or another by the CUP in 1911 include Articles 180, 188, 189, 190, and 191. Each of these articles was augmented in minor ways mainly dealing with punishments associated with each particular crime.<sup>76</sup>

The actual number of prisoners convicted of violent crimes, particularly assault and homicide constitute almost half of all those incarcerated in Ottoman prisons in 1911-12. For example, 2,926 out of the 5,738 individuals incarcerated in Istanbul prisons in 1911-12 were convicted and sentenced for violent crime against a person. In Beirut, out of the 4,591 incarcerated persons 2,121 were serving time for either assault or homicide in 1911-12. In Baghdad the number of violent crimes was less than half of the prison population in 1911-12, but still constituted the majority of any type of crime committed. Out of a prison population of 2,528, there were 799 prisoners convicted of violent crimes. In the Hijaz, the percentage of those incarcerated for violent crimes was also not as high as other places, but it still accounted for more than any other class of crime. Eighty-four individuals were serving time for violent crimes out of a population of four hundred sixty. In Canik Sancak, 631 were convicted of assault or homicide from a total prison population of 1,779.<sup>77</sup>

The most prevalently convicted and incarcerated offense during the Second Constitutional Period was misdemeanor (*günha*) 'Assault and Battery' (*darb ve cerh*).

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<sup>75</sup> See Article 177 of the IOPC in Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, p. 131.

<sup>76</sup> Bucknill and Utidjian, *Ottoman Imperial Criminal Code*, pp. 136-37, 141-45.

<sup>77</sup> For the statistics of the 1911-12 Ottoman prison survey for the Canik Sancak and the provinces of Istanbul, Baghdad, Beirut, and the Hicaz see BOA, DHMBHPSM 5/1, 4/4, 5/9, 4/21, and 3/36.

More than any other crime, this constituted the largest percentage of convictions and incarcerations. Most punishments related to this crime, however, indicated that the types of assaults were relatively minor, probably fisticuffs. The vast majority of prisoners incarcerated for misdemeanor assault served time of less than one month for the administrative regions of Istanbul, Beirut, Baghdad, the Hijaz, and Canik. It is also interesting to note that the overwhelming majority of females incarcerated in Ottoman prisons (which was a miniscule percentage compared to males) were guilty of misdemeanor assault and battery. Female punishments were also primarily of the twenty-four hours-one month range.

It should not be surprising that the prosecution and prevention of violent crimes, such as assault, rape, and homicide would comprise a major portion of CUP penal reforms. Central to CUP ideology was the need to control the masses by centralizing power regarding personal crime that up until the nineteenth century was held completely in the hands of Islamic law and courts and not within the jurisdiction of the government. This confluence of the need for social order and discipline and the state having greater access to and control over the lives of the individual is clearly reflected in the both the 1911 alterations to the IOPC, in terms of violent crime against individuals, theft, the prevalence of these crimes, and the results of the prison survey statistics.

Even the crimes where few were actually incarcerated, but were still monitored by the prison surveys add additional insight into CUP goals regarding its desire to consolidate power within its hands and protect government officials in their duties. Both of these goals are essential for creating and running a strong central and efficient

government which possesses a monopoly on the use of force and can project and enforce its policies and laws over the empire's population. They are also key elements to modernizing the rest of the empire in order to resist European economic encroachment and imperialism. Another category of the Ottoman Prison Survey questionnaire that provides important insights into CUP ideology and Ottoman society pertains to the prisoner's social-economic status and occupation.

### **Socio-Economic and Occupational Status of Ottoman Prisoners**

In order for a state to impose order and control its society, especially the criminal elements, it is vitally important to know the background and socio-economic status of those arrested, tried, convicted, and incarcerated. In the Ottoman Empire's and CUP's attempt to impose social order and discipline on the empire's population, the Ottoman Prison Survey included a section specifically devoted to identifying the socio-economic status/occupation of each prisoner according to the crime committed. This category is significant because it provides clear information on which crimes were committed by which sections of society and which sections of society made up the majority of the prison population. This in turn, provides evidence and insight regarding which elements of society the CUP was most concerned.

The 1912 and all subsequent Ottoman Prison Survey questionnaires were not very specific in their classifications, nor were they exhaustive.<sup>78</sup> The Ottoman Prison questionnaire, however, attempted to categorize the entire Ottoman prison population into twelve different divisions representing both broad and specific types of employment and socio-economic status. The different categories of occupation in the 1912 survey were listed in the following order:

1. State Officials (*memurin*)
2. Teachers (*muallimin*)
3. Physicians (*atıbbā*)
4. Merchants (*tüccar*)
5. Money Changers or Bankers (*sarraḥ*)
6. Land Owners (*ashab-ı akar*)
7. Artisans, Tradesmen/Guildsmen (*asnaḥ*)
8. Farmers (*zürre*)
9. Factory Workers (*amele*)
10. Ship Captains and Crew Members (*kapudan ve taife*)
11. Servants (*hademe*)
12. Unemployed (*işsiz*).<sup>79</sup>

There are interesting distinctions made here in this survey regarding socio-economic status and occupation. The CUP Prison Administration wanted to differentiate between skilled and unskilled workers (*asnaḥ* and *amele*), between rural and urban workers (*zürre* and *asnaḥ / amele*), and it wanted information on very specific types of occupations, such as domestic servants, ship captains and crew members, money changers/bankers,

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<sup>78</sup> For the types of occupations in which Ottoman subjects were employed see Kemal Karpat, *Ottoman Population, 1830-1914: Demographic and Social Characteristics* (Madison, WI: University of Wisconsin Press, 1985), pp. 214-18. The lists of occupations which Karpat includes in his work come from the Ottoman population records and are quite extensive although not exhaustive.

<sup>79</sup> BOA, DHMBHPSM 8/3 doc. 13.

teachers, and medical doctors. This constitutes an interesting mixture of professionals and unskilled workers filling quite specific occupations. In terms of government employees, the category could not have been any more general and unspecific (*memurin*). For a political organization (the CUP) with an ideological platform focused on cleaning up bureaucratic corruption and red tape; and intent on creating a more efficient and centralized state administration, it seems strange that it would not collect more specific information on incarcerated government employees. Concerning the organization of this category, there appears to be a definite separation and gradation according to socio-economic status with professionals and the wealthy occupations coming first and less skilled, less wealthy occupations coming later. The final two categories (servants and the unemployed) represented the poorest elements of Ottoman society and the lowest rungs of the Ottoman socio-economic ladder.

Notwithstanding the broad nature of these occupational divisions, these categories do provide some insight into what the CUP deemed most important in terms of who was incarcerated in Ottoman prisons. It also provides insights concerning which groups of peoples the CUP was most concerned with, particularly those individuals who participated most heavily in the Ottoman economy, namely bankers/money changers, merchants, factory workers, artisans/guildsmen, farmers, and ship captains and crew members. It also provides insights into the groups the CUP was least concerned with, such as religious scholars and clerics (*ulema*, *talebeler*, *imams*, *muezzins*, and *hafizler*). This group, which according to the 1894/95 Ottoman population census consisted of over

583,000 practitioners, was the single largest profession in the Ottoman Empire.<sup>80</sup> This being the case, however, the Ottoman Prison Administration did not see the need to collect information on their numbers, even though, the CUP looked upon many of those from the 'religious professions' with suspicion and purged much of the group for its anti-constitutional and anti-secularist views.<sup>81</sup>

The vast majority of the 1912 Ottoman prison population came from the lowest rungs of the Ottoman socio-economic ladder. In fact, over ninety-percent of the Ottoman Prison population of 1912 came from this segment of society. The vast majority of prisoners also filled the lowest paying and least prestigious occupations, namely, artisans/guildsmen, factory workers, and farmers. This is not unlike the United States, Britain, or any other country.

These individuals also represented the largest segments of the Ottoman population as a whole. Groups, such as those which dominated the Ottoman prison population, traditionally constitute the masses. It was also from these groups that the central and provincial governments obtained the vast majority of their revenues in the form of taxes. Therefore, the CUP had a very keen interest in monitoring and controlling these groups.

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<sup>80</sup> See Chart IV.10 "Professions in the Ottoman State, by Number of Practitioners, 1894/95 (R. 1310)" in Karpas's *Ottoman Population, 1830-1914*, p. 218.

<sup>81</sup> For details regarding the CUP purges to the religious professions in the Ottoman Empire and the cooperation and tensions between the CUP and the Muslim religious professions see Niyazi Berkes, *The Development of Secularism in Turkey* (New York: Routledge, 1998), pp. 289-295, 367-410 and Şükrü Hanioğlu, *Preparation for a Revolution: The Young Turks, 1902-1908* (New York: Oxford University Press, 2001), pp. 305-08. Tensions became high particularly after the 1909 counter coup attempt perpetrated and supported in many cases by religious school students and soldiers loyal to Abdülhamid II and afraid of losing their status under the new regime.

The prison statistics from the five administrative regions (Istanbul, the Hijaz, Beirut, Baghdad, and Canik) cited throughout this chapter reveal that out of a prison population of 15,091 in 1912 only 234 government officials, ninety-one teachers, seven physicians, forty-five merchants, eight bankers/money lenders, and 274 land owners were among the incarcerated. The total number of prisoners from the 'upper classes' was a paltry 559. Those prisoners representing the 'lower' classes, however, are staggering and equal to at least 13,020 individuals. The breakdown of this total number is 5,715 artisans/guildsmen, 3,709 farmers, 1,591 factory workers, 210 ship captains and crew members, 371 servants, and 1,424 unemployed.<sup>82</sup>

According to the sum of these prisoners there are still roughly fifteen hundred prisoners for whom their occupations are unaccounted. Theoretically speaking, there could have been a total of about 2,000 prisoners from the upper classes in 1911-12, but this is highly unlikely considering the overall trends of the prison statistics. Most likely, however, the socio-economic status/occupation of the vast majority of those unaccounted prisoners was the 'lower' classes. Regardless, no matter what the actual status of the unaccounted socio-economic status of the fifteen hundred prisoners, the percentage of upper class prisons of the total prison population ranges from as low as 3.7% to a possible high of 13.3% in 1911-12. Unfortunately, there is no way to provide irrefutable proof of this assertion since not all administrative districts of the four provinces and one *sancak* completely or correctly filled out their questionnaires. Another important fact

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<sup>82</sup> For the statistics of the 1911-12 Ottoman prison survey for the Canik Sancak and the provinces of Istanbul, Baghdad, Beirut, and the Hicaz see BOA, DHMBHPSM 5/1, 4/4, 5/9, 4/21, and 3/36.

revealed from these prison statistics is that the most prominent crimes for which the lower classes were incarcerated were assault and theft.

The reorganization of the 1914 Ottoman Prison Survey's questionnaire reflects the findings of the 1912 survey. In 1914, the Ottoman Prison Administration reorganized the section of the prison survey dealing with socio-economic status/occupation. This change, perhaps, reflects a need to devote more space to the most prevalent occupations found among the prison population. In the 1914 version many of the categories for professionals were combined and some occupations were more clearly defined. For example, while the category for 'state officials' (*memurin*) remained unchanged, the categories requesting the numbers of physicians (*atıbbı*) and teachers (*muallimin*) was combined. This new category was given a different name, which included a phrase making it more inclusive of all science related professions. Its new name was 'Physicians, Teachers, and other Scientists/Professionals' (*atıbbı ve muallimin ve sair ehl-i fünun*).

Following this new category, the questionnaire of 1914 proceeded in a similar order as the 1912 version with its category titles unchanged until the second to last. In the 1912 survey, the second to last category was entitled 'Servants' (*hademe*), which is obviously a very general category. In the 1914 version, the title was changed and its meaning circumscribed to 'The Servants of Merchants, Money Changers/Bankers, and Others' (*tüccar ve sarraf ve saire hademesi*). The final category remained the same as it



was in the 1912 version—‘Unemployed’ (*işsiz*).<sup>83</sup> The alterations to the 1914 questionnaire represent some significant changes in clarifying the types and numbers of professions and occupations for which the Ottoman Prison Administration wanted to collect statistics.

These changes also reflect some important aspects of CUP ideology in regard to greater emphasis on monitoring and controlling particular segments of the masses. The augmentation of an existing nondescript category, such as “Servants” to “Servants of Merchants, Money Changers/Bankers and others” is very revealing. Merchants and money changers were important financiers of Ottoman industrialization and economic recovery and it was obviously important to protect them from the most common crimes committed by servants against them, i.e. theft and assault. Also, the 1914 survey circumscribed and combined the categories with the fewest number of incarcerations, namely physicians and teachers. Statistics were still kept, but emphasis on particularization was reduced since the need to know exactly which of these two professionals committed specific crimes was no longer of importance to the Ottoman Prison Administration and the CUP.

Similar to every other industrializing and modernizing state of the modern period, the Ottoman Empire’s prison population was predominantly lower class. The typical Marxist explanation for this phenomenon is that the upper and middle classes utilize prisons as a means of suppressing and disciplining the masses in order to maintain their power base and manage their work force. The work force of all industrialized or

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<sup>83</sup> BOA, DHMBHPS 150/3 doc. 2.

industrializing societies during the Second Industrial Revolution was always made up of predominantly unskilled workers and peasants. The Second Constitutional Period and the CUP appear to fit this Marxist interpretation. Laissez-faire economics was rejected by the CUP and viewed as the cause of much of the empire's economic and political problems. The CUP's vision for the empire was to industrialize and modernize through a state directed and mandated process (étatisme). This process required a discipline labor force to work the factories of a newly created bourgeoisie, to work the fields, and to pay the taxes all under the direction, guidance, control, and promotion of the new ruling elite, i.e. the CUP.<sup>84</sup>

## Conclusion

The purpose of this chapter is to draw connections between various Ottoman penal reforms and practices in order to shed light on CUP ideology and pragmatism and Ottoman society during the Second Constitutional Period. There are deep connections between revisions made to the Imperial Ottoman Penal Code in 1911 and the comprehensive prison reforms initiated in the autumn of 1911 and the organization and conduct of the Ottoman Prison Survey in early 1912, particularly in terms of crime and the socio-economic status of the prisoners. CUP penal code and prison reforms of 1911 and early 1912 clearly demonstrate a desire to increase the power and authority of the

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<sup>84</sup> See Berkes, *The Development of Secularism in Turkey*, pp. 335-37.

state over criminal matters at the expense of Islamic law and courts. These reforms also demonstrate CUP desires and efforts to create a centralized, efficient administration, particularly a justice system, where the state is the purveyor of power and which has greater access to and control over the Ottoman Empire's population.

Through the abrogation of Islamic Law and courts in criminal matters, the CUP was removing a long lived intermediary to state power. The CUP was consolidating within the state's hands the monopoly on the use of force over the population regarding crime and punishment. It was also expanding this monopoly not only in matters that relate to state order and regime perpetuation, but also over the everyday lives of the empire's subjects.

Specific changes to the IOPC directly corresponded to the crimes for which statistics were collected in the annual Ottoman Prison Surveys. This was not coincidental, but planned. In fact, many of the most heavily revised articles of the IOPC were clearly reflected in the survey questionnaire. Of the hundreds of crimes on which the Ottoman Prison Administration could have collected statistics only thirty-two types of crimes were included in the prison survey. These crimes, their statistical results, and the socio-economic backgrounds of the prisoners possess incredible revelatory power concerning CUP ideology and concerns for its own power and for the empire.

The revisions to the IOPC, the prison survey questionnaire, and the survey's statistical findings, particularly regarding crime and the socio-economic background of the prisoners, demonstrate the CUP's need to control the masses; direct, develop, promote, and control the economy; preserve and expand its (the CUP's) power and

authority; and create a bourgeoisie class. The convergence of IOPC reforms, the prison survey, and its statistical results, particularly regarding the overwhelming majority of prisoners being from the lower classes and predominant crimes being assault and theft, demonstrate the CUP's need to protect private property, individual rights, its own powers, and its need to fully control the adjudication of criminal matters in all facets of Ottoman state and society. Laws were augmented, punishments strengthened and rationalized, and new prisons and penal programs enacted all for the benefit and preservation of the CUP and the reformation of the Ottoman Empire.

It is important to reemphasize that these reforms to penal codes, policies, and practices in Ottoman penal institutions occurred under the direction of Talat Pasha. As Minister of the Interior, he was responsible for the Directorates of Prisons and Public Security. He also worked very closely with the Ottoman Ministry of Justice in order to coordinate the changes to the IOPC with the reforms simultaneously enacted in the prison system. The Ottoman Ministry of the Interior was the most heavily reformed of all ministries during the Second Constitutional Period. It was also arguably the most important government ministry, along with the military, in terms of restructuring the empire into a modern, efficient, centralized, state capable of staving off internal fracturing and European economic and imperial encroachment.<sup>85</sup> In addition to these responsibilities, Talat Pasha was also leader of the largest and most powerful faction of the CUP. In other words, all of these reforms to penal practices and policies were not

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<sup>85</sup> Regarding the alterations and powers of the Ministry of the Interior, see Carter Findley, *Bureaucratic reform in the Ottoman Empire: the Sublime Porte, 1789-1922* (Princeton, NJ: Princeton University Press, 1980), pp. 309-16.

carried out disjointedly by local bureaucrats. This was a coordinated, systematic effort stemming from the highest levels of the CUP. This makes the case for Ottoman penal institutions as CUP 'laboratories of modernity' all the more compelling.

The Ottoman Prison Survey's categories of crime and socio-economic status, however, are not the only categories that offer compelling insights into CUP ideology and strengthen the argument for prisons being a 'laboratory of modernity' for the CUP. The prison questionnaire's category dealing with the ethno-religious/national identity of the prisoners provides insights into how the CUP dealt with issues of race, ethnicity, religion, and nationality in attempting to form an Ottoman nation-state based on the underlying principles of civic nationalism with Muslims being the core constituency of the empire.

## Chapter Four

### Constructing the Nation by Categorizing the Incarcerated: The Ambiguity and Fluidity of *Millet* Identity in the Late Ottoman Empire

...it is important to note that émigrés from the Russian [to the Ottoman] Empire [in the late nineteenth and early twentieth centuries] like [Ahmet] Ağaoğlu adopted the model [civic nationalism based on the French model and concepts of progress and modernity] before they had developed a clear-cut national consciousness. Moreover, the intellectual and practical considerations that were to draw a defining line around the sources of this authenticity were not immediately worked out. Thus Ağaoğlu could call himself a Persian at one time and a Turk at another, indeed a *Rus Musliman* and a *Türk Musliman* in the same article, he could serve in the Ottoman Parliament, the Parliament of the Republic of Azerbaijan and in [The Republic of] Turkey's Grand National Assembly without this being a manifestation of incoherence. What his peregrinations reveal is not inconsistency in him, but *the incredible fluidity of the times*. Nor was he alone in this; [others] were al[so] active in both the Russian and Ottoman Empires and in some cases in Iran as well. These men did not slide from one national movement to another, in a sly or fickle manner as the circumstances seemed more or less advantageous to them. Such a perception can only arise from a false image of 'latent' or 'imprisoned' national identities 'rising to the surface' and liberating themselves at the first favorable moment. The reality, however, was that the content and limits of the identities were quite unclear until these 'opportunities' defined them. Some of this difference disappeared with the disappearance of the Ottoman Empire...<sup>1</sup>

This passage from the conclusion of A. Holly Shissler's *Ahmet Ağaoğlu and the New Turkey*, provides important insights into the fluidity and ambiguity of identity in the late Ottoman and Russian Empires. It also demonstrates the spread of the 'culture of nationalism' among the inhabitants of both empires in the nineteenth and early twentieth centuries.<sup>2</sup> During this period many elites and intellectuals, such as Ahmet Ağaoğlu, had

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<sup>1</sup> A. Holly Shissler, *Between Two Empires: Ahmet Ağaoğlu and the New Turkey* (London: I.B. Tauris, 2003), pp. 212-13. Emphasis is my own.

already adopted the conceptual framework of nationalism without committing themselves to a particular national identity. As the populations of these respective states adopted and adapted Western ideas from the Enlightenment, political, cultural, and historical contingencies limited, halted, and/or facilitated the development and adoption of certain nationalist identities during the late nineteenth and early twentieth centuries.

This phenomenon was no different during the Second Constitutional Period in the Ottoman Empire. Though Ottomanism (*Osmanlılık*) held currency regarding the national identity of the empire's population during this period, contestation existed concerning which groups or individuals were to be included in this form of civic nationalism. Throughout the Second Constitutional Period, one important site of identity contestation, on both the communal and national levels, was the Ottoman prison. In fact, one of the most revealing areas of identity contestation and negotiation was the 1912 and 1914 questionnaires of the annual Ottoman Prison Survey.

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<sup>2</sup> According to James L. Gelvin, the 'culture of nationalism' consists of a social imaginary in which five shared assumptions appear natural and self-evident: 1. the world is naturally divided into entities called 'nations', 2. nations consist of peoples grouped together according to a set of shared characteristics, such as language, religion, ethnicity, and history, 3. the only type of government that can promote the common interest is national self-government, 4. nations are to be based in some territories that are the repository for the nations' history and memory, and 5. though nations may change in form or shape over time, the nation's 'essence' remains the same. These five shared assumptions were spread throughout the world during the nineteenth century as a result of the implementation of new methods of governance and the spread of market relations, which respectively led to the individuation and totalization of state populations and the creation of a public sphere where new ideas were spread and new relationships fostered. The totalization and individuation of state populations and the creation of a public sphere broke down the economic, social, political, and cultural relationships of the early modern period and created the modern world characterized by the current world economic system and world system of nation-states. For a much more detailed analysis and explanation of these concepts, see James L. Gelvin's *The Modern Middle East: a History* (Oxford: Oxford University Press, 2005), pp. 9-146 and *The Israel-Palestine Conflict: One Hundred Years of War* (Cambridge: Cambridge University Press, 2005), pp. 14-45.

Questionnaires and censuses of this type are important tools that a state administration utilizes to quantify, identify, categorize, and control its population. Not only do they provide important statistical data, but they also offer revealing insights into how the Ottoman Prison Administration and members of the CUP distinguished between and conflated nationality, religious affiliation, ethnicity, and communal identity in this critical period of Middle East history. They also reveal how some CUP members named different segments of the population. Most importantly, this survey provides vital insights into the differentiation members of the CUP made between national and communal identity within the Ottoman Empire during the Second Constitutional Period, particularly in terms of the use and meaning of the word *millet*.

Through an analysis and comparison of the various uses and meanings of the term *millet* in the 1912 and 1914 Ottoman prison questionnaires, *millet* is best translated as ‘ethno-religious community’ rather than ‘nation’ or ‘nationality.’<sup>3</sup> The implications of this definition and usage are far reaching for several reasons. First, they challenge some of the current scholarship’s assertions that the Committee of Union and Progress was a Turkish nationalist organization intent on the ‘Turkification’ of the Ottoman Empire. Second, they call for the reexamination of CUP members’ supposed Turkish nationalist proclivities during the late Ottoman Empire. Third, the implications of the prison survey’s use of *millet*, provides further support for the claim that Ottoman national identity was based on a form of civic nationalism. This Ottoman national identity was

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<sup>3</sup> See Sir James Redhouse, *New Redhouse Turkish-English Dictionary*, 12<sup>th</sup> ed. (Istanbul, 1968), p. 777. In this definition for *millet*, ‘nation’ and ‘nationality’ are erroneously emphasized at its primary meaning.



based upon a territorial obedience to a set of laws in the ideal, however similar to other forms of civic nationalism, such as French or American, a specific group held the reigns of power and was *de facto* favored. In the Ottoman case this *de facto* power group consisted of Muslims as the empire's core constituency. Finally, these implications demonstrate the fluidity and ambiguity of identity within the late Ottoman Empire, particularly in terms of communal, religious, ethnic, and even 'national' identities. Scholars must be very cognizant of these facts and careful not to impose upon the Second Constitutional Period the subsequent development and widespread adoption of particular ethnic nationalist identities after the demise of the Ottoman Empire.

### ***Millet*: Ethno-Religious Identity, National Identity, or Both?**

One of the most intriguing categories of identity found in the 1912 and 1914 Ottoman prison surveys requested the individual prisoner's *millet*. The word *millet* during the late Ottoman Empire possessed several interrelated meanings and confusing usages. In modern Turkish, the term *millet* and its derivatives clearly mean 'nation,' 'people,' 'national,' 'nationality,' 'nationalism,' or 'nationalist.' The significance of this term implies that the population or 'nation' is the source of sovereignty, however, the Ottomans, particularly the CUP, did not see *millet* as meaning 'national sovereignty,' but more as 'ethno-religious' communal identity. This meaning of *millet* in the first decades

of the twentieth century is best demonstrated through an analysis and comparison of its usage in the 1912 and 1914 Ottoman prison surveys.

In the 1912 Ottoman Prison Survey questionnaire, the category requesting the *millet* identity of the prisoner was labeled “*milliyet-i mahkumin*.”<sup>4</sup> According to the contemporary English translation and the most common interpretation of this word by current scholarship, this category supposedly identifies the nationality of the prisoner. This translation, though, is not wholly accurate and actually obfuscates the multiple and nuanced meanings that the word *millet* possessed during the late Ottoman period. A more accurate though awkward translation of “*milliyet-i mahkumin*” is “the ethno-religious communal/national identity of the prisoners.”

Under the category of *milliyet-i mahkumin*, the possible ‘*millet*’ identities of the prisoners consisted of ten categories listed in the following order:

1. *İslam*.
2. *Rum Katolik ve Protestan* (Greek Orthodox Catholic and Protestant).
3. *Ermeni Katolik ve Protestan* (Armenian Catholic and Protestant).
4. *Musevi* (Jewish).
5. *Bulgar* (Bulgarian Exarchate, which was a religious identity separated from the Greek Orthodox in the 1870s).
6. *Milel-i Muhtelif-e-yi Osmaniye* (Other Ottoman Communities).
7. *Alman* (German), *Fransa* (French), *İngiliz* (British), and *Avustralı* (Austrian).
8. *İranlı* (Iranian/Persian).
9. *Yunanlı* (citizens of the Greek Nation-state, not Greek Orthodox Ottoman subjects).
10. *Milel-i Muhtelif-e-yi Ecnebi* (Other Foreign Nationals).<sup>5</sup>

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<sup>4</sup> BOA, DHMBHPSM 3/5. *Mahkumin* literally means, ‘prisoner convicted of a crime.’

<sup>5</sup> BOA, DHMBHPSM 3/5. See Figure 4-1.

The image shows a completed 1912 Ottoman Prison Survey questionnaire from the Istanbul Jail (tevkifhane). The form is a long, narrow sheet of paper with multiple columns and rows, filled with handwritten text in Ottoman script. The text is organized into sections, with some headings in larger, bold script. The form appears to be a detailed record of prison conditions and inmate information.

Figure 4-1: Example of completed 1912 Ottoman Prison Survey questionnaire from the Istanbul Jail (tevkifhane). See BOA, DHMBHPSM 4/4, doc. 3.

These different categories highlight the convoluted and ambiguous nature of the term ‘*millet*’ in the late Ottoman Empire. Under the same exact category, *millet* designates officially recognized religious communities, other religious and communal sects, and foreign nationals. The first meaning of *millet* (as a state designated official religious community) was most likely solidified with the creation of the ‘*Millet System*’ by the Ottoman administration on 25 April 1861. A system founded, in part, to implement the Imperial Rescripts of 1839 and 1856, which declared that all Ottoman subjects possessed equal status before the law regardless of religious affiliation.<sup>6</sup> The *Millet System*’s categorization of the Ottoman population was based in large part upon Islamic Law and “traditional judgments” (*Örf-i hukuk*), thus dividing the Ottoman population into four major categories with various subcategories based upon religious affiliation.<sup>7</sup>

The three major monotheistic religions—Islam, Christianity, and Judaism—constituted the base of the *Millet System*. Christianity was the only religion divided into a limited number of subdivisions with each being officially designated as separate *millets*. These Christian *millet* subdivisions were Armenian, Greek Orthodox (*Rum*), and the Bulgarian Exarchate (*Bulgar*). The Bulgarian Exarchate was originally a subgroup of the *Rum Millet*, but was separated in 1870.<sup>8</sup> These *millets* were legally different from

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<sup>6</sup> See translations of these two Ottoman Imperial Rescripts in James L. Gelvin’s *The Modern Middle East, A History* (New York, 2005), pp. 148-54.

<sup>7</sup> Yavuz Ercan, “Non-Muslim Communities under the Ottoman Empire (Millet System)” in *The Great Ottoman, Turkish Civilization*, ed. Halil Inalcik, (Ankara: 2000), pp. 381-91.

<sup>8</sup> Kemal Karpat, *Ottoman Population 1830-1914: Demographic and Social Characteristics*, (London: University of Wisconsin Press, 1985), pp. 35, 46.

religious sects (*mezhepler*), which were numerous and given some recognition by Istanbul, but not *millet* status.

Other religious sects (*mezhepler*) that did not possess ‘official’ religious recognition, but were still subject to Ottoman rule, made up the second meaning and usage of the term *millet* as found in the 1912 prison questionnaire. These alternative religious groups, such as Alevis, Druze, Yazidis, Maronites, Assyrians, or Coptic Christians, for example, were designated by the category of “other Ottoman communities.” This category also included the word *millet* in its title, but in the plural form—*milel*. The third usage and meaning of the word *millet* included foreign nationals, such as Germans, French, Austrians, and British. A discussion of these three different yet related meanings and uses of the word *millet* (i.e. official religious community, other religious sects, and foreign nationals) is significant in order to illustrate Ottoman and CUP understandings of what ‘ethnicity,’ ‘race,’ or national identity meant during the Second Constitutional Period. These issues are significant. They provide insight into CUP nationalist proclivities and its vision of who constituted the Ottoman nation-state.

These three usages of the term *millet* (i.e. official religious community, other religious sects, and foreign nationals) directly coincide with the order in which this portion of the prison survey questionnaire was organized. In other words, the *millet* identity of officially recognized religious communities within the Ottoman Empire came first, followed by other religious sects within the empire, and then finally foreign nationals. The different designations for the first section are as follows in the same order as they are found on the survey, *İslam, Rum Katolik ve Protestan, Ermeni Katolik ve*

*Protestan, Musevi, Bulgar, and Milel-i Muhtelifi-yi Osmaniye*. The typical Western scholar's translation of *Rum* would be Greek Orthodox, but this definition needs to be qualified and explained. Greek Orthodox could also be translated as a religious adherent to the Ecumenical Patriarchate, which is actually a more accurate translation of *Rum*. 'Greek' in this context refers to Ottoman subjects whose religious affiliation is with the Ecumenical Patriarchate. Unfortunately, the designation 'Greek' is often incorrectly construed as a national identifier by Western scholars. The word 'Greek' itself is a Western nationalist construction that portions of the Greek speaking, Ottoman Christian population adopted in the early nineteenth century in order to be identified as a 'separate' nation and gain independence from the Ottoman Empire. Furthermore, the Ottomans had a separate term for a Greek foreign national—*Yunanlı*, which is a derivative of the Ottoman Turkish name for the Greek nation-state—*Yunanistan*. This implies that a *Rum Katolik* or *Protestan* is a former adherent of the Ecumenical Patriarchate who converted to Protestantism or Roman Catholicism.<sup>9</sup>

It is significant that the numbers of *orthodox* Armenians and Ecumenical Patriarchate prisoners were not requested, only the combined number of prisoners who were Protestant or Catholic. The numbers of 'orthodox' Armenians and Patriarchate Ottoman subjects would have greatly outstripped those who had converted to Catholicism or Protestantism. Surely there were 'orthodox' Armenians and Ecumenical Patriarchates in Ottoman prisons at this time. Why, then were they not included in this survey?

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<sup>9</sup> See Ercan, p. 385.

A convincing explanation to this conundrum is found on the 1914 Ottoman Prison Survey questionnaire. The 1914 questionnaire followed the same format and general content of the 1912 questionnaire. Significant changes, however, were made to some of the categories of inquiry for reasons of clarity and specificity. One such correction made in the 1914 questionnaire concerned the number of Armenians and Greek Orthodox prisoners. The 1914 questionnaire changed the 1912 categories requesting the numbers of *Rum Katolik ve Protestan* (Greek Orthodox Catholics and Protestants) and *Ermeni Katolik ve Protestan* (Armenian Catholic and Protestants) to *Rum ve Rum Katolik ve Protestan* (Greek Orthodox and Greek Orthodox Catholics and Protestants) and *Ermeni ve Ermeni Katolik ve Protestan* (Armenian and Armenian Catholics and Protestants).<sup>10</sup> It appears that the original intention of the survey was to collect the statistics on all those associated with the Greek Orthodox and Armenian communities.

Having Catholics and Protestants included with the religious *millet* of the Greek Orthodox and Armenian Christian is a bit puzzling and it raises other questions regarding identity in the late Ottoman Empire and CUP understandings of ‘ethnicity.’ If Catholics and Protestants are still included under the category of Ecumenical Patriarchate and Armenian Christianity then are these designations purely religious? Or do they also represent a quasi-ethnic identity that is intertwined with religion, culture, and language? The answers to these questions are unclear. What is clear, though, is that the first portion of the *milliyet-i mahkumin* section of the questionnaire, which included officially

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<sup>10</sup> See BOA, DHMBHPS 150/3 docs. 1-3. Compare these documents with the original surveys distributed throughout the empire in 1912, BOA, DHMBHPS 8/3 doc. 13.

recognized religions and other religious sects within the Ottoman Empire, was dealing with ethno-religious classifications of Ottoman subjects and not with national identities.

Nowhere in the questionnaire was there a request for the number of Ottoman subjects considered Turks, Arabs, or Kurds among the prison population. The CUP appears to have been content with including Turks, Arabs, and Kurds under the rubric of Islam with no reference to ethnic, linguistic, or religious differences among these groups. These groups were not viewed as 'sovereign nations' within the Ottoman Empire at this time or even as separate ethno-religious communities with a national identity, but as part of the core constituency of the Ottoman nation—Muslims. For example, a prisoner in Baghdad's Central Prison in 1912, Hassan Ibn Hussein, who would be quickly identified today as an Arab Shiite, was not identified as such by the CUP's Prison Administration, but rather simply as a Muslim. The issue of ethno-religious national identity among Muslims that is so pervasive and perversely manipulated in the contemporary Middle East does not appear to have been an important issue to the CUP, at least for the Ottoman Prison Administration, as late as 1918.<sup>11</sup>

It is important to realize that the CUP was still categorizing the population according to long-standing Ottoman classifications based on general religious affiliation, such as Muslims, Jews, and Christians until the end of the empire. The 1912 Ottoman Prison Survey questionnaire offers important insights into CUP concepts of nationalist identity based on religion, ethnicity, and language. It even helps explicate supposed CUP

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<sup>11</sup> The 'ethnic' identity of Ottoman prisoners was never requested or collected in any of the several prison population surveys conducted during the Second Constitutional Period.



Turkish nationalist aspirations, and therefore illuminate the CUP's national vision for the Ottoman Empire. CUP members were elitists, but not separatists. They were still actively ascribing to and promoting official Ottoman civic nationalism (*Osmanlılık*) until the end of the empire. This official Ottoman nationalism was supposed to transcend linguistic, ethnic, communal, and religious differences, even though its core constituency consisted of the empire's Muslim subjects. For the vast majority of Ottoman Muslims, this form of civic nationalism was surprisingly effective and widespread until the demise of the empire.<sup>12</sup>

The second portion of the *milliyet-i mahkumin* category of the 1912 Ottoman prison survey, however, clearly *does* deal with nationality, but only in relation to foreign nationals within the Ottoman Empire, even though the exact same word is used to

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<sup>12</sup> I use the term civic nationalism to describe the type of nationalism officially promoted by the Ottoman Administration during the Second Constitutional Period, because according to the laws of the land all imperial subjects were equal before and subject to the same laws. This equality before the law was adopted in 1839 with the Imperial Decree of the Rose Garden (*Gülhane Hatt-ı Hümayunu*), iterated in 1856 with the *Islahat Fermanı*, included in the first Ottoman Constitutional of 1876, and again iterated with the re-adoption of the 1876 Ottoman Constitution in 1908. This *de jure* equality was adopted initially by the Ottoman Empire, because of European pressure, however subsequent reiterations and strengthening of this equality was also carried out as part of Ottoman efforts to obtain revocation of capitulations imposed on the Ottoman Empire by the Great Powers. These capitulations provided certain subjects of the Ottoman Empire extraterritorial status. In other words, the capitulations contained provisions which allowed Ottoman subjects working for the Great Powers to be subject to Great Power and not Ottoman law. Attempts to abrogate these capitulations were more aggressively pursued during the Second Constitutional Period.

The *de jure* status of equality contained within the Ottoman Constitution does not mean that there were not favored groups within the Ottoman subject population, which received *de facto* privileges or easier access to power. All supposedly civic nationalist states, such as the United States, France, or the United Kingdom, have a portion of their populations that receives *de facto* privileges and favored treatment in terms of the law or access to power. In the case of the Ottoman Empire this favored *de facto* constituency was the Muslim population. For a comprehensive treatment of the use of religion and the creation of an Ottoman identity whose main constituency was Muslim during the reign of Sultan Abdulhamid II, see Selim Deringil's *The Well-protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909* (London: I.B. Tauris, 1998). Also see Kemal Karpat's *The Politicization of Islam: Reconstructing Identity, State, Faith, and Community in the Late Ottoman State* (New York: Oxford University Press, 2001), 533 p.

describe this group—*millet*. This portion of the questionnaire requested the number of prisoners who were foreign nationals, such as French, German, British, Austrian, Iranian, and Greek (*Yunanlı* and not *Rum*). There was also a catchall category for “other foreign nationals.” From this section it is much easier to ascertain the meaning of *millet*, which in this context is unambiguous. These categories refer to subjects of foreign sovereign states. What is interesting, though, is that the Ottoman Prison Administration felt the need to clarify and circumscribe the meaning and use of the term *millet* in the 1914 Ottoman Prison Survey questionnaire as part of its annual prison survey.

### **Clarifying *Millet*’s Ambiguity: Ottoman Subjects or Citizens**

On 25 May 1914, the province of Istanbul submitted its prison statistics for 1913-14 to the Ottoman Prison Administration utilizing a similar version of the 1912 questionnaire. There were, however, some subtle yet very significant alterations, particularly regarding the category requesting the prisoner’s ethno-religious communal/national identity. The title of the 1914 version of this category was changed from *milliyet-i mahkumin* to *milliyet ve tabiiyet-i mahkumin*. This same category was now separated into two subdivisions not previously contained within the 1912 version of the questionnaire. The two new subdivisions were entitled *tebaiyeten Osmaniye* and *tebaiyeten ecnebiye*. Instead of the ten different choices regarding the identity of the prisoners, this version of the survey now included twelve different categories divided

equally between the two new subdivisions. The subdivision of *tebaiyeten Osmaniye* included the following:

1. *İslam*.
2. *Rum ve Rum Katolik ve Protestan* (Greek Orthodox and Greek Orthodox Catholic and Protestant).
3. *Ermeni ve Ermeni Katolik ve Protestan* (Armenian and Armenian Catholic and Protestant).
4. *Musevi* (Jewish).
5. *Bulgar* (Bulgarian Exarchate).
6. *Milel-i Muhtelifi-yi Osmaniye* (Other Ottoman Communities).

The second subdivision of *tebaiyeten ecnebiye* included the following:

7. *Alman* (German) ve *Avustralı* (Austrian).
8. *İngiliz* (British).
9. *Fransa* (French).
10. *İranlı* (Iranian/Persian).
11. *Yunanlı* (Greek Nation-state subjects).
12. *Milel-i Muhtelifi-yi Ecnebi* (Other Foreign Nationals).

These new titles, subdivisions, and categories represent significant changes to and clarifications of the original 1912 prison questionnaire's ambiguous use and meaning of the term *millet*.<sup>13</sup>

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<sup>13</sup> See BOA, DHMBHPS 150/3 (1 and 2, front and back). See Figure 4-2.

Figure 4-2: 1914 version of the Ottoman Prison Survey questionnaire, Istanbul Province. See BOA, DHMBHPS 150/3, doc. 2.

The first significant change to the 1912 survey is the addition of two related words *tabiiyet* (تابعیت) and *tebaiyeten* (تبعیه) found correspondingly in the title of the entire category related to the ethno-religious communal/national identity of the prisoners and in the category's two new subdivisions. The words are, respectively, an adjective and adverb and possess the meaning of “nationality or allegiance” and “as a subject.” Both words are derivatives of *teba* (تبع) which means “1. a following; an imitating, conforming to or obeying. 2. follower; imitator.” Both words are also very closely associated with *tabi* (تابع) and *tebaa* (تبعه), which mean respectively “a subject of a state or sovereign” and “subjects; subject (of a state).” *Tabiiyet*'s antonym *tabiiyetsizlik* means “statelessness.”<sup>14</sup>

*Tabiiyet* carries additional meanings which include “a conforming, dependence.”

*Tabi* also possesses additional meanings which include

that follows; following. 2. a follower of the practice of another; follower (of a leader). 3. dependent; subject (of a state or sovereign); servant. 4. imitating; conforming; submissive. 5. *Islamic religious* lived after Muhammad was dead but had conversed with at least one of his companions. 6. *geog.* tributary (of a river). 7. *Arabic gram.* word in apposition. [tabi]– **ve metbu'** 1. follower and the one followed. 2. subject and his sovereign. 3. consequent and antecedent. – **ol=** /a/ 1. to follow, to be a follower, dependent, or imitator (of). 2. to depend (on). – **vadiler** *geog.* secondary valleys.<sup>15</sup>

*Tebaiyeten* possesses the additional meanings of “1. as a follower, imitator, or conformer. 2. as a consequence; conforming to.”<sup>16</sup> It is a direct derivative of *Tebaiyet* (تبعیت) which means

<sup>14</sup> See Sir James W. Redhouse, *A Turkish and English Lexicon*, 2. Edition (Istanbul, 2001), p. 488 and Sir James W. Redhouse, *Redhouse Turkish/Ottoman-English Dictionary*, 17. Edition (Istanbul: Sev Matbaacılık ve Yayıncılık, A.Ş., 1997), pp. 1075, 1111.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

a being the subject of a sovereign or state; allegiance; submission. 2. a following, an imitating, obeying. 3. a conforming. – *et* = /a/ 1. to submit (to), to become subject (to). 2. to conform.<sup>17</sup>

The common thread running through all of these words, related to or derivative of *tabi*, is their shared relation to a sense of being subject to someone or something more powerful than itself and a sense of dependency. In every context and use of these words, i.e. geography, grammar, religious terminology, in compound verbs, or as adjectives, nouns, or adverbs, the distinct meaning of being subject to something higher, stronger, or more powerful, pious, or knowledgeable, is clearly shown. Nowhere in any of these various meanings is there an implication that this word means ‘citizen’ or the idea that the Ottoman population possessed sovereignty and legitimated the government’s rule.<sup>18</sup>

The use of *tabiiyet* (تَابِعِيَّة) and *tebaiyeten* (تَبَاعِيَّة) in the questionnaire of the 1914 Ottoman Prison Survey, when referring to prisoners from the Ottoman Empire, represents a significant change and clarification in terminology. This change indicates that members of the Ministry of the Interior and the Ottoman Prison Administration realized the ambiguous nature of *millet* and sought to clarify its meaning regarding national and communal identity between Ottoman subjects and the subjects of other sovereign states. The 1912 questionnaire appears to have conflated the traditional diplomatic usage of the term *millet* (as religious sovereignty) with the more recently developed meaning of

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<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

‘ethno-religious community’ in reference to Ottoman subject populations.<sup>19</sup> In the 1914 version, the meaning and use of the term *millet* or *milliyet* are much more circumspect and not used to refer to the nationality or national identity of the prisoners. Instead, the term *tabiiyet* is used to designate the ‘national’ identity of the individual members of the prison population.

The one exception to the non-use of *millet* in reference to ‘national’ identity in the 1914 version is the final category of this section of the questionnaire. The final catchall category for ‘other foreign nationals,’ similar to its ‘ethno-religious’ counterpart—“other Ottoman communities”—does use the word *millet*. Its title is still “*milet-i muhtelif-e-yi ecnebi*.” This is the only example where any derivative of the word *millet* refers to the concept of nationality or national. Otherwise, the use and meaning of the word *millet* in the 1914 version is absolutely clear and refers only to the ethno-religious communal identity of incarcerated Ottoman subjects. This exception constitutes the second

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<sup>19</sup> Benjamin Braude’s “Foundation Myths of the *Millet* System” investigates the development, uses, and meanings of the term *millet* by the Ottoman bureaucracy from the fifteenth to the early twentieth centuries. The result of this investigation convincingly challenges the long held assumption that the development and institutionalization of the ‘*Millet* System’ dates back to Sultan Mehmet II’s conquest of Constantinople in 1453. Through an investigation of the term *millet* and its uses in a variety of internal and diplomatic Ottoman Imperial documents, Braude argues that *millet*’s meaning and usage in the early modern period entailed a sense of sovereignty among states, whose sovereignty was legitimated through adherence to a particular religion. *Millet* was not, however, used to designate subjects within the Ottoman Empire according to religious communal identity, such as Jews, Armenians, or other non-Muslim religious groups. *Millet* was used, though, in reference to the Muslim community within the empire since the sultan’s legitimacy was based largely upon his role as leader of the ‘community’ of Muslims or *ummah*. Based on this argument, Braude seems to imply, but does not state specifically, that in association with the notion of ‘sovereignty,’ the term *millet* also possessed a distinctly religious connotation. In other words, the term *millet* brings together the notion of sovereignty as legitimated by a particular religious adherence. Braude convincingly argues that the nineteenth century ‘*Millet* System’ should be renamed ‘communal system’ since, by that time, the term *millet* began to be used to refer to Ottoman subject populations designated as Jews, Armenians, Greek Orthodox, and Muslims. See Benjamin Braude’s “Foundation Myths of the *Millet* System” in *Christians and Jews in the Ottoman Empire: the Functioning of a Plural Society*, eds. Bernard Lewis and Benjamin Braude (New York: Holmes & Meier Publishers, Inc., 1982), pp. 69-88.

significant change to the 1914 prison survey which clearly designates the populations of sovereign powers (Ottoman or foreign) as 'subjects' and not 'citizens.'

The word *tabi* and its derivatives possess no notion of 'citizen' and therefore possess no sense of the population being the seat of sovereignty. By their very nature and definition, 'subjects' do not possess sovereignty. The significance of this carefully chosen word on the part of the Ottoman Prison Administration is, perhaps, that the CUP did not want to invest the Ottoman population with a sense of sovereign power.

It is not clear how prevalent the Western concept of the 'nation' as the repository of sovereignty was in the late Ottoman Empire. A citizen is the basic unit of a nation in which sovereign power is held. Nationalism presupposes that sovereignty rests within the 'nation' or the population. It is this population that gives legitimacy or sovereignty to the ruler, because that ruler represents the authentic interests and expression of the nation.<sup>20</sup> In juxtaposition, a subject does not possess sovereign power.

According to CUP ideology, the masses were not to be trusted, but feared. This view of the populace also supports the assertion that in the late Ottoman Empire, the population was not viewed as citizens possessing sovereign power. This view of the masses might eventually change as the CUP was able to elevate the Ottoman population to the level of a 'scientific society' based upon science, reason, and progress. However, until that time occurred and the CUP could accomplish its mission of rescuing the empire through comprehensive modernizing reforms, the masses were to be controlled and kept from influencing policy. No power was to be invested in them, except in terms of their

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<sup>20</sup> See Gelvin's work on the 'culture of nationalism' discussed in footnote two of this chapter.



mobilization in support of CUP policies and agendas. The CUP never claimed that its legitimacy and authority to rule came from the people, but from its unique position as enlightened, modern educated, rational, scientific elites. Members of the Committee of Union and Progress actively viewed themselves as Comtian Positivists and the *savant* of the empire. The crowd, therefore, was not their source of sovereignty or power.<sup>21</sup>

It is also unclear just how much the population understood regarding the concept of citizenship and popular sovereignty. The Ottoman Empire's exposure to and experience with constitutions and elections was very short lived and unsuccessful prior to 1908. By the end of the empire (1918), only small segments of the Ottoman population had marginal experience with voting, constitutions, or parliamentary rule. Is ten years a sufficient amount of time for the Ottoman population to adopt and internalize the notion of citizenship and popular sovereignty?

To the CUP, the sultan was still viewed as the sovereign of the Ottoman Empire. Constitutional monarchy was still considered the proper and culturally authentic form of rule. In addition to the 'traditional' view of the sultan as the sovereign of the empire, which had been continually reinforced for almost four-hundred years, the empire had just emerged from a period where the power and 'sovereignty' of the sultan had never been greater than under Abdülhamid II. His reign lasted for over thirty years and he succeeded in consolidating within his hands such power as to reduce the independence of the Ottoman bureaucracy vested in the Sublime Porte. He actively and successfully

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<sup>21</sup> For a discussion regarding the CUP's adherence to and use of Gustav LeBon's theories of the masses, crowds, and revolutions see chapter two.

promoted himself as an absolutist ruler. It is true that the Sultan Abdülhamid II actively promoted *Osmanlılık* (Ottomanism) based on a shared imperial identity of Islam. He also promoted, however, his identity as Caliph, the leader of the community of the faithful or *ummah*. He claimed to be the leader with vested power from God and the 'Shadow of God on Earth.' Sovereignty rested solely in him as the leader of the *ummah*.<sup>22</sup>

For these reasons, mass based sovereignty was nascent at best when the CUP came to power. It was also in the best interest of the CUP to keep it that way in order to preserve their own power and avoid usurpation by the masses. Constitutional monarchy and Islam were still actively promoted as the embodiment of imperial sovereignty and identity by the CUP throughout the *entire* Second Constitutional Period. This occurred concurrent with the Ottoman state's increasing power over the personal affairs of its subjects and the population's increasing identification with and vested interest in the perpetuation of the state as protector of its rights and privileges.<sup>23</sup>

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<sup>22</sup> See Deringil's *Well Protected Domains* and Karpas's *The Politicization of Islam*.

<sup>23</sup> Regarding the mistrust members of the CUP felt towards the lower classes and whether or not they were seen as citizens or subjects, I would compare the Ottoman case with that of the British. The British population had a dual identity of being subjects and citizens in the early twentieth century. There was limited suffrage, but also a distinct notion of being subjects to the royal family. The upper classes, which held suffrage rights, simultaneously possessed the qualities of sovereignty and subjectivity to the crown. These views are obviously contradictory in an ideal world, but I am trying to avoid the ideal in this case. I argue that a growing concept of nationalism existed among the masses as well. This is substantiated by the growing suffrage movements by the lower classes and women. Similar to the British case, I argue that, as elitists, members of the CUP, particularly the leadership, viewed themselves as simultaneously possessing sovereignty and subjectivity to the Sultan, by virtue of their modern educations, etc. They needed to lead the empire out of 'darkness' into a new dawn and raise the population to their status as educated, rational beings. This infers that members of the CUP accepted that the masses possessed some sort of 'latent' sovereignty and could be citizens once they were raised to the status the CUP envisioned for them and the empire. For these reasons the CUP could view the lower classes as subjects with the potential to be citizens, therefore the masses belonged to something called an Ottoman Nation and possessed Ottoman national identity or *Osmanlılık*.

## Reevaluating the Development of Turkish Nationalism

Regardless of what *millet* actually meant in the 1912 and 1914 Ottoman Prison Surveys, the prison administration wanted to make sure to distance its meaning from the concept of sovereign national power. Therefore, in 1914, the prison administration attempted to clarify *millet*'s ambiguous meaning found in the 1912 survey by having it refer more distinctly to prisoners as 'subjects' of sovereign powers organized according to ethno-religious communities instead of as 'citizens' of nation-states, whether they be Ottoman subjects or subjects of foreign powers. This detailed investigation into the use and meaning of *millet* has the potential for much greater implications regarding late Ottoman 'nationalist' history—particularly in terms of the development of Turkish nationalism. It also challenges claims that the CUP was dominated by Turkish nationalists bent on 'Turkifying' the Ottoman Empire in order to create a Turkish State.

If the primary meaning and use of *millet*, during the late Ottoman Empire, was to identify an individual's ethno-religious communal identity rather than that person's 'nationality,' then there must be a reevaluation of current scholarship regarding the origins and development of Turkish nationalism. Currently, there are two explanations for the development of Turkish nationalism among contemporary scholars. Both claim that Turkish nationalism developed during the late Ottoman Empire. One explanation, however, dates its development much later than the other. The first camp argues that Turkish nationalism developed as a result of the Balkan Wars, which concluded in

1913.<sup>24</sup> This explanation is undermined by the 1914 survey which still did not request the ‘ethnic’ identity of the prisoners, such as Turks, Arabs or Kurds. None of the other subsequent prison surveys conducted during the Second Constitutional Period collected information on the ethnic identity of its prisoners.

The second explanation situates the development of Turkish nationalism as early as 1876 and wholly conflates it with Turkism or pride in one’s Turkish heritage. These scholars argue that the CUP was a Turkish nationalist organization based on its members’ use of the term *millet* in their writings; based upon the creation of organizations promoting pride in one’s Turkish identity and heritage; and based upon so called ‘Turkification’ programs carried out by the CUP administration. Each of these justifications is used to claim a CUP Turkish nationalist agenda during the Second Constitutional Period.<sup>25</sup>

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<sup>24</sup> See Feroz Ahmad’s *The Young Turks: The Committee of Union and Progress in Turkish Politics, 1908-1914* (Oxford: Clarendon Press, 1969), pp. 154-55.

<sup>25</sup> As examples of these scholars’ arguments related to the preponderance of Turkish nationalism among CUP members see Niyazi Berkes, *The Development of Secularism in Turkey* (New York: Routledge, 1998), *Turkish Nationalism and Western Civilization: Selected Essays of Ziya Gökalp*, trans. and ed. with an introduction by Niyazi Berkes (Westport, CT: Greenwood Press, 1959); Taha Parla, *The Social and Political Thought of Ziya Gökalp, 1876-1924* (Leiden: Brill, 1985), pp. 25-56; Uriel Heyd, *Foundations of Turkish Nationalism: The Life and Teachings of Ziya Gökalp* (London: Harvill Press, 1950); Ernest Ramsaur, *The Young Turks: Prelude to the Revolution of 1908* (New York: Russell & Russell, 1957), pp. 67-74; Bernard Lewis, *The Emergence of Modern Turkey*, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 1968), pp. 343-352; David Kushner, *The Rise of Turkish Nationalism, 1876-1908* (London: Frank Cass, 1977), pp. 7-14, 97-101; and Masami Arai, *Turkish Nationalism in the Young Turk Era* (Leiden: Brill, 1992), pp. 57-65. The best example of a prominent and respected scholar who still continues to conflate Turkism with Turkish nationalism and claims that the CUP was a Turkish nationalist organization is Şükrü Hanioğlu. His seminal works on the development of Young Turk ideology and its central and intimate relationship to Turkism and Turkish nationalism are *The Young Turks in Opposition* (New York: Oxford University Press, 1995) and *Preparation for a Revolution* (Oxford: Oxford University Press, 2001) in addition to numerous articles regarding the development of Young Turk and CUP ideology. In his most recently published article, “Turkism and the Young Turks, 1889-1908” in *Turkey beyond Nationalism: towards Post-*

In light of the use and meaning of the term *millet* in the 1912 and 1914 Ottoman prison surveys, assumptions regarding CUP Turkish nationalist proclivities must be reexamined. *Millet's* dominant meaning, at least in terms of the prison population, clearly was 'ethno-religious community,' rather than 'national' or 'nationalist' identity. Through the comparison of the two surveys it is clear that the Ottoman Prison Administration took great pains to clarify and circumscribe *millet's* meaning, thus distancing it from the concept of 'nation' and 'sovereignty' to that of 'ethno-religious communal identity.' Unfortunately, the contemporary meaning of *millet* (i.e. 'nation' and 'nationality') has been retroactively imposed upon the Second Constitutional Period in an attempt to explain the rise and development of Turkish nationalism.

In light of the use and meaning of the term *millet* during the Second Constitutional Period there must be a reexamination of what CUP members, such as Yusuf Akçura and Ziya Gökalp, really meant when they used the term *millet* in their writings prior to the dismantling of the Ottoman Empire. It is likely that they were not discussing Western concepts of ethnic nationalism, per se, until after the empire's demise. Obviously, any administrative document, such as a statistical survey, belongs to a very different discursive field than do ideological and literary texts, such as those produced by Yusuf Akçura and Ziya Gökalp. It is highly likely that *millet* meant multiple things depending on the context and discursive field in which the term was used. Additionally, the Committee of Union and Progress was not a monolithic or homogenous

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*Nationalist Identities*, ed. Hans-Lukas Keiser (London: I.B. Tauris, 2006), pp. 3-19, Hanioglu argues that Turkism and Turkish nationalism are synonymous and that it was "the *Weltanschauung* of the CUP."

organization. There were multiple nationalist agendas and projects at work, not only within the Young Turks, but also within the Committee of Union and progress. That being said, however, as a result of the prison survey's use and meaning of *millet*, the question of the prominence and even existence of Turkish nationalism prior to the 1918 must be raised.

Many of the second camp seem to ignore or minimize the repeated and sustained efforts by the CUP to promote and champion a broadly inclusive Ottoman nationalism centered on equality among all of the empire's subjects regardless of religion, language, or communal identity. This camp explains away these efforts claiming that the CUP had to suppress its true nationalist aspirations out of practicality and necessity in order to preserve imperial unity and territorial integrity. The second camp implies that the actions of the CUP were somehow disingenuous and that on the surface the CUP would promote unity at the expense of its members' true aspirations.<sup>26</sup>

The problems with this argument are threefold. First, at its core this argument is conspiratorial and its painting of CUP members as disingenuous Ottomanists is backed by little, if any, evidence. Second, this argument promotes the discredited notion of primordial nationalism and claims that somehow there is an unchanging national essence to all Turks throughout time and space. Finally and most significantly, this argument makes Turkism synonymous with Turkish nationalism.

The inaccurate retroactive imposition of the contemporary meaning of *millet* upon the Second Constitutional Period has led the second camp to conflate Turkism with

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<sup>26</sup> See Hanioglu's *Preparation for a Revolution: The Young Turks, 1902-1908*, pp. 295-302.

Turkish nationalism. This camp has repeatedly asserted that some members of the CUP, such as Akçura and Gökalp, were Turkish nationalists because they formed, promoted, and contributed to Turkish heritage societies, literary groups, and journals during the late Ottoman Empire. Some of these Turkist organizations and journals included The Turk's Hearth (*Türk Ocağı*), the Turk's Homeland (*Türk Yurdu*), and the Turk's Association (*Türk Derneği*).<sup>27</sup> As evinced by these groups and journals Turkism certainly existed in the late Ottoman Empire, but there is an essential and important difference between Turkism and Turkish nationalism. Pride in one's heritage does not mean a desire for national self-determination based upon that identity. There are an overwhelming number of examples of communal identities, ethnic or otherwise, that never achieved, desired, or considered themselves to be nationalist movements.

Communal identities based upon pride in one's heritage can lay the foundation for and facilitate the creation of a nationalist identity and a desire for self-determination. This possibility, however, does not make such a development inevitable. Turkism and Turkish nationalism, similar to Arabism and Arab nationalism are fundamentally different phenomena, where one is a literary or heritage movement and the other is a movement calling for self-determination and national expression in the form of a nation-state. These are two very different phenomena that should not be conflated.<sup>28</sup>

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<sup>27</sup> See Masami Arai, *Turkish Nationalism in the Young Turk Era* (Leiden: EJ Brill, 1992), 168 p.

<sup>28</sup> For a similar discussion on the difference between Arabism and Arab nationalism see James L Gelvin's "Post hoc ergo propter hoc?: Reassessing the lineages of nationalism in Bilad Al-Sham" in Thomas Philipp and Christoph Schumann (eds.), *From the Syrian Land to the States of Syria and Lebanon* (Beirut: Ergon Verlag Würzburg in Kommission, 2004), pp. 127-44 and "The 'Politics of Notables' Forty Years After" in *Middle East Studies Association Bulletin*, 40/1 (June 2006), pp. 19-30 in which Gelvin states, in

As a result of a problematic translation of *millet* found in the writings of certain CUP members and the participation of those same members in Turkish heritage societies, the second camp has interpreted certain CUP administrative practices as efforts at the ‘Turkification’ of the Ottoman population. Many scholars have portrayed CUP attempts to enact and enforce laws requiring the sole use of the Turkish language in administrative matters including courts, bureaucracies, and schools, particularly in the Arab provinces, as efforts at ‘Turkification’ and proof of CUP Turkish nationalist proclivities.

This portrayal is erroneous for several reasons. First, attempts by the CUP to make Turkish the administrative, bureaucratic, and educational language of the empire were not new. In fact, Turkish had been the administrative language of the empire for hundreds of years. Second, the Ottoman Constitution of 1876, which was reinstated as a result of the Young Turk Revolution of 1908, mandated that Turkish was the official language of the empire. Third, for the sake of bureaucratic efficiency, almost every state and empire throughout history has had a central bureaucratic language, especially those states which had polyglot populations spread over far flung territories, such as the Roman, British, Russian, and French empires, not to mention the Ming and Qing Dynasties to name just a few. The Ottoman Empire was no different from these other states in this regard. Fifth, in the end, the Committee of Union and Progress cancelled

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reference to the supposed development of nationalism among the Arab populations of the Ottoman Empire during the last half of the nineteenth and the first decades of the twentieth centuries, that “There is the presumption that Arab nationalism has a privileged claim on the allegiance of the Arabic-speaking population of the region and that by providing an explanation for the origins and evolution of Arab nationalism one is, in effect, providing an explanation for the origins and evolution of nationalism. There is the assumption that Arab nationalism is just the next logical step after Arabism, as if the two did not belong to entirely different categories of phenomena (p. 28).”



the so called ‘Turkification’ policies as outlined above as a result of local opposition in the Arab provinces of the Ottoman Empire.<sup>29</sup> Finally, opposition to these supposed ‘Turkification’ policies in the Arab provinces has been portrayed as clashes between Arab and Turkish nationalists. This is not the case. In fact, these conflicts are more accurately portrayed as resistance to administrative centralization and/or a desire for greater autonomy, *not independence*, by elements of the population in some Arab provinces. Two compelling examples illustrate this point—Mehmed Ali Pasha of Egypt and the Karak Revolt of 1910.

The case of Mehmed Ali Pasha, the Albanian Ottoman subject and son of a pirate who ruled Ottoman Egypt in the first half of the nineteenth century, is an excellent example of an individual who carved out an autonomous zone in the empire without declaring an independent nation-state. His successful resistance to Ottoman attempts at administrative centralization is not an example of popular revolt nor is it an example of an independence movement, even though Egyptian nationalist historiography considers Mehmed Ali Pasha (or Muhammad Ali Pasha as they refer to him) as the father of Egyptian Arab nationalism and modern Egypt. Regardless, he never viewed himself as independent of the sovereignty of the Ottoman Empire.<sup>30</sup>

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<sup>29</sup> For greater details regarding these so called ‘Turkification’ policies by the CUP in the Arab provinces of the Ottoman Empire during the Second Constitutional Period and their subsequent cancellation see Hasan Kayali, *Arabs and Young Turks: Ottomanism, Arabism, and Islamism in the Ottoman Empire, 1908-1918* (Los Angeles: University of California Press, 1997).

<sup>30</sup> For a thorough discussion of Mehmet Ali Pasha’s reign in Ottoman Egypt see Khaled Fahmy, *All the Pasha’s Men: Mehmed Ali, his army and the making of modern Egypt* (New York: The American University in Cairo Press, 1997) and Ehud Toledano, “Mehmet Ali Paşa or Muhammad Ali Basha? An historiographical appraisal in the wake of a recent book,” *Middle Eastern Studies* 21 (1985), pp. 141-59.

A different, but equally effective example of rebellion against Ottoman centralization is The Karak Revolt of 1910 in what is now the Hashemite Kingdom of Jordan. This revolt is more accurately characterized as a 'primitive rebellion' rather than an Arab or Jordanian nationalist independence movement. Eric Hobsbawm defines a 'primitive rebellion' as a movement formed to protest or resist intrusive centralizing efforts or to regain lost privileges.<sup>31</sup> In the case of the Karak Revolt of 1910, the rebels were resisting CUP attempts at power centralization, such as new methods of taxation, property registration, and military conscription. The Karak Revolt was not a nationalist uprising, nor was it waged for independence. Rather it was waged in order to return to the status quo and regain rights which the population felt it had lost due to new governmental practices.<sup>32</sup>

The actions of Mehmed Ali Pasha and the Karak Revolt of 1910 are representative of most rebellions by Muslim populations in the late Ottoman Empire.<sup>33</sup> Therefore, rather than labeling certain CUP administrative programs as attempts at the 'Turkification' of the Ottoman populace, it is more accurate to depict these programs as efforts by the CUP to create a more efficient and centralized bureaucratic

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<sup>31</sup> On Eric Hobsbawm's concept of 'primitive rebellions' see *Primitive rebels: studies in archaic forms of social movements in the 19th and 20th centuries* (New York: W.W. Norton, 1959), 202 p.

<sup>32</sup> For a more comprehensive treatment of the Karak Revolt of 1910 see Eugene Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan 1850-1921* (Cambridge: Cambridge University Press, 1999), pp. 184-217.

<sup>33</sup> The only exception is the Albania during the Balkan Wars (1913-13), which declared its independence from the Ottoman Empire, even though its population was predominantly Muslim.

administration.<sup>34</sup> CUP ideology was centered on the creation of a modern, rational, scientific, efficient nation-state that encompassed all areas and populations of the Ottoman Empire. Therefore, Turkish nationalist motivations for its centralizing program do not constitute a convincing rational. If this is combined with the fact that the existence of CUP Turkish nationalist proclivities is questionable then the whole label of 'Turkification' is seriously undermined. Much more work needs to be done on these issues, but suffice it to say, the official documents of the Ottoman Prison Administration call into question many of the assumptions held by current scholarship regarding the origins and development of Turkish nationalism and CUP Turkish nationalist proclivities.

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<sup>34</sup> For a convincing and much more comprehensive discussion of why CUP attempts at administrative centralization should not be portrayed as efforts at 'Turkification' see Hasan Kayalı's *Arabs and Young Turks: Ottomanism, Arabism, and Islamism in the Ottoman Empire, 1908-1918* (Los Angeles: University of California Press, 1997), chapters 2-4. Also see C. Everest Dawn's "The Origins of Arab Nationalism" in *The Origins of Arab Nationalism*, ed. Rashid Khalidi (New York: Columbia University Press, 1991), pp. 3-30. Dawn appears to have been the first to make the claim that CUP efforts to centralize administrative authority and improve bureaucratic efficiency were not attempts at 'Turkification,' even though he claims that the CUP was a Turkish nationalist organization. His erroneous assumption that the CUP was a Turkish nationalist organization is based on his conflation of Turkism with Turkish nationalism which he simultaneously did with Arabism and Arab nationalism. Notwithstanding this conflation he was still able to discern that CUP enforcements of the use of the Turkish language were based on a desire for greater bureaucratic centralization and efficiency and not motivated by a particular ethnic nationalist agenda. Erol Ülker's "Contextualising 'Turkification': nation-building in the late Ottoman Empire, 1908-18" in *Nations and Nationalism* 11 (4), 2005, pp. 613-636, attempts to categorize and account for the differences in supposed CUP 'Turkification' policies. This is an important recent work which adds significantly to this topic, however, the author falls into the same trap of assuming CUP Turkish nationalist proclivities by conflating Turkism with Turkish nationalism. This assumption of CUP Turkish nationalist agenda eschews much of the recent scholarship on the Second Constitutional Period. All actions taken by the CUP are portrayed as somehow part of an ethnic nationalist agenda. There are, however, serious doubts as to whether this agenda even existed. Therefore, the entire pretext upon which he bases his argument, i.e. that there was such a thing as 'Turkification,' is problematic.

## The Fluidity and Ambiguity of Identity in the Late Ottoman Empire

This analysis of the various and convoluted meanings of the word *millet* in the same category of the 1912 and 1914 Ottoman Prison Surveys also demonstrates the fluidity of identity in the late Ottoman Empire. There is a burgeoning scholarly literature on this topic that must be considered when discussing the origins and development of particular nationalist movements during the first three decades of the twentieth century in the Middle East.<sup>35</sup> What has been demonstrated thus far is the utter ambiguity of the term *millet* and CUP members' attempts at clarifying and circumscribing its ambiguous meaning to 'ethno-religious' communal identity within the questionnaires of the Ottoman Prison Administration's annual prison surveys.

In addition to the categories of inquiry in the prison questionnaire, there is another aspect of the prison surveys which demonstrates the confusion the use and meaning of the term *millet* engendered during the Second Constitutional Period, namely how the forms were filled out by local prison officials. Not only do these completed forms demonstrate the multifaceted nature and meaning of *millet*, but they also demonstrate the fluid nature

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<sup>35</sup> For examples of this burgeoning literature on the fluidity and ambiguity of identity in the late Ottoman Empire and early Turkish Republican period see Eric Zürcher, "Islam in the Service of the National and Pre-national State: the instrumentalisation of religion for political goals by Turkish regimes between 1880-1980" in *Turkology Update Leiden Project Working Papers Archive Department of Turkish Studies*, Leiden University (Oct. 2004), pp. 1-15; "The Vocabulary of Muslim Nationalism," *International Journal of Sociology of Science*, 137 (1999), pp. 81-92; and "Young Turks, Ottoman Muslims and Turkish Nationalists: Identity Politics 1908-1938" in *Ottoman Past and Today's Turkey*, (ed.) Kemal Karpat (Leiden, 2000), pp. 150-179. Additionally, see Feroz Ahmad's "Unionist Relations with the Greek, Armenian, and Jewish Communities of the Ottoman Empire, 1908-1914" in *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society*, (eds.) Bernard Lewis and Benjamin Braude (New York: Holmes & Meier Publishers, Inc., 1982) pp. 401-434 and "Politics of Islam in modern Turkey," *Middle Eastern Studies* 27/1 (1991), pp. 3-21. See also A. Holly Shissler's *Between Two Empires: Ahmet Ağaoğlu and the New Turkey* (London: I.B. Tauris, 2003).

of identity in the late Ottoman Empire. The Ottoman Prison Administration did not include explicit instructions with the questionnaires concerning the exact manner in which local prison officials were supposed to complete them. In other words, there were no clear directions regarding how to determine the *millet* identity of a particular prisoner. It appears that the Directorate of Prisons assumed that this category was self-explanatory in its 1912 version.

Based upon the variety of ways in which the *millet* portion of the survey was filled out by local prison officials, it is apparent that confusion as to the meaning of *millet* existed. Many discrepancies exist in how the individual prison officials actually indicated a prisoner's *millet* identity in the survey. Sometimes local prison officials gave prisoners multiple *millet* identities based on a prisoner's national, religious, and communal identities.

For example, in Mecca, the provincial capital of the Hijaz, prison officials assigned multiple *millet* identities to the same prisoner. Some prisoners were identified as both Muslims and as belonging to the category of 'Other Ottoman Communities.' Additionally, incarcerated German, French, British, and Austrian subjects were also given dual *millet* identities, but in this instance as foreign nationals and as Muslims.<sup>36</sup> This act of providing multiple *millet* identities to the incarcerated was not uniform across the Hijaz province. In the administrative district of Jedda, Iranian subjects were not

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<sup>36</sup> BOA, DHMBHPSM 3/36 doc. 2.

identified in a dual manner. In other words, the prisoners identified as Iranian, who were almost assuredly Muslim, were not also identified as such, but only as Iranian.<sup>37</sup>

A possible explanation for this conflation of identity and the assignment of multiple *millet* identities to one prisoner is that according to Ottoman imperial tradition and Islamic law, only Muslims were allowed in the holy cities of Mecca and Medina, both located in the Hijaz. Perhaps the prison officials in Mecca felt they needed to provide greater specificity as to the exact identity of the prisoners. It appears that identifying a prisoner solely as a Muslim was not sufficient for Meccan prison officials. This need for greater specificity as to the identity of the Hijazi prisoners led local prison officials to apply the multiple meanings of the word *millet* to each prisoner.

This need for greater specificity was not uniform throughout the entire province. The confusion as to the exact meaning of the word *millet* played itself out in the filling out of these prison questionnaires. Some Hijazi prison officials understood *millet* to mean national, religious, and ethnic identity, and thus attempted to identify each prisoner as those different meanings applied. Other prison officials within the Hijaz, however, do not appear to have had this same understanding of *millet* or the same need to apply its multiple meanings to each prisoner. This is an explicit example of the ambiguous nature of *millet* in the late Ottoman Empire with which local prison officials were grappling.

This distinction of differentiation made between national and religious/communal identity was not uniform throughout the Ottoman Empire. Hijazi prison officials were not the only ones to apply multiple *millet* identities to the incarcerated. In the Ottoman

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<sup>37</sup> BOA, DHMBHPSM 3/36 doc. 3.

province of Baghdad, national identity and religious identity were also conflated by some local prison officials. Unlike Jeddah, local prison officials in the Baghdadi administrative district of Kazımiye (كاظمية) felt the need to indicate the national, religious, and ethnic identity of its prisoners. Under the *millet* identity section of the prison questionnaire, Kazımiye prison officials indicated that prisoners who were Iranian nationals were also Muslims and whether or not Muslim Ottoman subjects belonged to 'Other Ottoman Communities.'<sup>38</sup> Other administrative districts in the province of Baghdad did not assign similar multiple *millet* identifications.<sup>39</sup>

The Beirut district of Haifa and the Yanya district of Margılıç (مارغلیج) are two additional examples of administrative districts which assigned multiple *millet* identities to the same prisoner.<sup>40</sup> These two examples are unique in comparison with the districts in the Hijaz or Baghdad. In Jeddah, Mecca, and Kazımiye only Muslims were assigned multiple *millet* identities. This confusion can be easily understood since this designation (i.e. as Muslim) does not distinguish between the various ethnic and linguistic communities to which Muslims belonged. There was also no place provided on the prison questionnaire for groups such as Arabs, Turks, or Kurds, all of whom are predominantly Muslim, but possess distinct cultural characteristics.

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<sup>38</sup> BOA, DHMBHPSM 4/21 doc. 1.

<sup>39</sup> BOA, DHMBHPSM 4/21.

<sup>40</sup> For Haifa see BOA, DHMBHPSM 5/9 doc. 20. Beirut province's prison statistics for 1912 are all found in BOA, DHMBHPSM 5/9. For the Margılıç district of Yanya see BOA, DHMBHSM 4/20 doc. 5. Yanya province's complete prison statistics for 1912 are all found in BOA, DHMBHPSM 4/20.

In Haifa and Margılıç, it appears that all prisoners, not just Muslims, were given multiple *millet* identities. In fact, all Ottoman subjects who were assigned a religious *millet* identity of either Muslim, Greek Orthodox, or Jewish were also listed under the “Other Ottoman Communities” category. Perhaps prison officials thought there was a dominant Ottoman *millet* identity and none of the prisoners in these two districts belonged to it. If that was the case then the local prison officials felt required to indicate that all of the prisoners did not belong to this unstated chief Ottoman *millet* identity; and therefore, must be designated as such even if the prisoners were obviously not Muslim, such as Greek Orthodox and Jewish prisoners. On the other hand, perhaps the prison officials thought the questionnaire was first asking about religious identity and then it required information regarding each prisoner’s communal or ethnic identity.

Whatever the reason, it appears that the Haifa prison officials made a clear distinction between religious affiliation and ethnic or communal identity and that the term *millet* possessed these two clear and distinct meanings in their minds. This instance is unique though. Of the other twenty administrative districts possessing prisons in the Beirut Province and of the other nineteen in the Yanya Province, only Haifa and Margılıç designated its prisoners in this way.<sup>41</sup>

In other Ottoman provinces, such as Manastır, Mamüretülaziz, Mosul, and Istanbul, local prison officials did not assign multiple *millet* identities to prisoners.<sup>42</sup> In

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<sup>41</sup> See BOA, DHMBHPSM 5/9 doc. 20 and DHMBHSM 4/20 doc. 5.

<sup>42</sup> See BOA, DHMBHPSM 6/27 for Manastır’s prison statistics, BOA, DHMBHPSM 12/70, 14/65, and 145/26 for Mamüretülaziz, Mosul: BOA, DHMBHPS 145/2 and 147/59, for Istanbul BOA, DHMBHPSM 4/4 and DHMBHPS 147/93 and 148/4.



fact, only a few administrative districts assigned multiple *millet* identities to the incarcerated. In other words, they did not specify the religious affiliation of foreign nationals or those labeled as 'Other Ottoman Communities.' However, the assigning of multiple *millet* identities to the same prisoner was not limited to one isolated province. It cannot, therefore, be explained away as a strange aberration in one isolated corner of the empire. The areas which did assign multiple *millet* identities were spread over the entire empire, from European provinces to the Arabian Peninsula and to Mesopotamia encompassing a variety of different cultures, languages, religions, and peoples.

This confusion and lack of uniformity helps to explain further why the Ottoman Prison Administration attempted to clarify and circumscribe *millet's* meaning to 'ethno-religious' communal identity in the 1914 version of the prison questionnaire. The very nature of collecting statistics often forces state officials and administrations to clearly delineate the meaning of terms and identities that in their unadulterated forms were by nature very fluid and inclusive. By circumscribing the meaning of *millet*, the CUP was also attempting to project and reinforce an imperial unity based on Ottoman nationalism, while at the same time maintaining traditional ethno-religious identities held by the population. This is similar to 'pouring new wine into old bottles.'

## Constructing the Ottoman Nation: New Wine in Old Bottles

As the nineteenth century progressed and as the 'culture of nationalism' spread to the Middle East, Ottoman elites and the general populace became exposed to nationalism as a new form of socio-political identification and organization. Concepts such as nation did not exist in Turkish, Arabic, or Persian. Words for these concepts had to be created, borrowed directly from Western languages, or designated by an existing word imbued with this new meaning. This blending of new concepts with pre-existing words often created confusion and ambiguity regarding the meaning of the newly adopted concept. It also facilitated, however, an individual's acceptance of the new concept, because it was combined with something familiar.

The wedding of old and new identity constructs is a quintessential characteristic of nationalism. Nationalism places new meaning on previously or currently held identity constructs so as to synthesize the past and present while looking to the future. It is this Janus-faced phenomenon that allows nationalism to typify the modern world and sets it apart from other socio-political ideologies and constructs. It is also this characteristic that enables nationalism to resonate among the populations of the world.

The use and meaning of the word *millet* in the 1912 and 1914 Ottoman Prison Surveys are excellent examples of how the combination of old and new can create ambiguity and confusion, but at the same time facilitate the adoption of the new because it is based in the familiar. The multiple uses and the ambiguous and conflicting meanings

of *millet* in the 1912 survey caused confusion among Ottoman prison officials. For these reasons in 1914, the CUP clarified and circumscribed *millet's* ambiguous meaning in the Ottoman Prison Survey questionnaire. By circumscribing the meaning of *millet*, the CUP demonstrated its goal of gathering all Ottoman subjects under the same nationalist tent, i.e. Ottomanism, and at the same time maintaining specific communal identities based on long-standing designations. The goal was to unite the old and the new in order to create and strengthen a unified 'national' identity without a complete abrogation of long held traditions and specific communal cultures.

The CUP attempted to work out the sticky and complicated issue of communal and national identity in the prisons of the late Ottoman Empire in order to promote a civic rather than an ethnic nationalist identity. The CUP's use of *millet* attempted to promote imperial/national unity and preserve its power as the elite leadership of the empire by emphasizing traditional ethno-religious communal ties and by subjugating those ties to the sovereign and unifying symbol of the empire under CUP leadership. The CUP promoted traditional identities and notions of being a subject of an imperial power, whose sovereignty was based on religious grounds, in order to promote their legitimacy as the new sovereigns of the empire based on their modern, progressive, scientific, *savant* leadership. This subtle alteration and promotion of the old 'Islamic' system in order to legitimate the new is a concrete example of how the prison was utilized as a laboratory of modernity.

Similar tactics of calling on the old to promote unity and to achieve a new order were employed by Mustafa Kemal Atatürk during the so called 'Turkish War of

Independence' (1919-23). He constantly conflated Islamic, Turkish, and Ottoman identities and symbols in order to mobilize and rally support for the cause of a 'Turkish,' 'Ottoman,' or 'Islamic' state (depending on the audience) during the immediate post-war period.<sup>43</sup> Reaching out and being inclusive of different ethno-religious communities is the goal of any self-proclaimed civic nationalist movement, especially that of the CUP during the Second Constitutional Period. This is not dissimilar to Napoleon's attempts to assimilate Jews into the French nation-state by having them declare that they were French citizens first and Jews second. In other words, their civic identity took precedence over their religious identities. They were French citizens in the public sphere and Jews in the private sphere.

Unfortunately, putting new wine into old bottles can cause the bottles to break. This is exactly what happened in the Middle East after the demise of the Ottoman Empire as a result of the First World War. The empire's fall, the resulting political vacuum, subsequent European imperialism via the mandates system, and the rise of rival nationalist movements all competing for the hearts and minds of the former empire's ethno-religious communities combined to fracture the civic nationalism of the Second Constitutional Period. This in turn entrenched the perverse ethnic nationalism that is so pervasive in the contemporary Middle East.

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<sup>43</sup> Eric Zürcher, "The Vocabulary of Muslim Nationalism," *International Journal of Sociology of Science*, 137 (1999), pp. 81-92

## Conclusion

As witnessed by the multiple meanings of *millet* in the 1912 Ottoman Prison Survey questionnaire, *millet* had no clear or circumscribed meaning and in fact referred to any number of possible identities, including religious, ethno-religious, and national identity. In 1914, however, the Ottoman Prison Administration purposely and consciously limited *millet's* multiple meanings and usages. Instead of *millet* simultaneously meaning officially recognized religious community, other religious communities, and national identity within the same category of the prison survey question, in 1914 it was circumscribed to 'ethno-religious community.' This is a concrete example of how Ottoman prisons were utilized as 'laboratories of modernity' to negotiate the sticky and potentially volatile issue of identity. To the Ottoman Prison Administration and the CUP, at least in the case of Ottoman prisons, *millet* did not mean 'national' or 'nationalist,' but 'ethno-religious' communal identity. This definition and use of *millet* must be accounted for when attempting to determine the origins and development of Turkish nationalism. It also calls into question long held assumptions that the CUP was a Turkish nationalist organization intent on achieving the 'Turkification' of the Ottoman Empire. Those attempting to trace the roots and development of subsequent nationalist movements and identities in the Middle East prior to World War I must be careful not to retroactively project Turkish, Arab, Kurdish, or most other nationalist movements with a Muslim core constituency back to the late

Ottoman period. The teleological imposition of post World War I ethno-nationalist movements on the late Ottoman Empire does not stand up to close and rigorous scrutiny. This retroactive imposition is simply a manifestation of the discredited idea of latent or repressed primordial national identities waiting for the proper moment and circumstances to reawaken and subsequently reemerge.

Can the roots of the emergence and development of these nationalist movements and identities be traced to the late Ottoman Empire? Of course they can. Literary societies, communal identities, and religious movements often provide the basis from which nationalist movements create their ideologies, garner popular support, and maintain and legitimate their existences. This was the case of Turkism and Arabism. They provided a basis from which nationalist movements, such as Turkish or Arab nationalism, could form a unified political identity grounded in a common constructed language, culture, history, and purpose. That purpose was to gain political power over a state representing the political aspirations of that nationalist movement.<sup>44</sup> It is from this unified identity and political aspiration that Turkish and Arab nationalist movements emerged in order to fill the political and social void left in the wake of the Ottoman Empire's demise.

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<sup>44</sup> See John Breuilly, *Nationalism and the State*, 2<sup>nd</sup> ed. (Manchester, U.K.: Manchester University Press, 1993), pp. 1-16. Breuilly convincingly argues that nationalist movements are first and foremost about "politics and that politics is about power. Power, in the modern world, is principally about control of the state." (p. 1). This is the underlining and most fundamental characteristic of nationalism that must be realized and addressed before undertaking an analysis of specific nationalist movements. Later, Breuilly defines 'nationalism' as a political movement based on three core assertions. "(a) There exists a nation with an explicit and peculiar character. (b) The interests and values of this nation take priority over all other interests and values. (c) The nation must be as independent as possible. This usually requires at least the attainment of political sovereignty." (p. 2). Upon what specific basis a particular nationalist movement defines its history and culture, garners support, and legitimates its existence is unique to each movement. At its core is a desire for political power in a territory of land which represents the nation's true will.

## Chapter Five

### **Disciplining the Disciplinarians: Administrative Reform and the Professionalization of the Ottoman Prison Cadre during the Second Constitutional Period**

Usually when the topic of discipline and prisons is breeched, the first items of discussion are Jeremy Bentham's prison panopticon and Michele Foucault's *Discipline and Punish*. The panopticon was designed to provide prison guards maximum surveillance over prisoners, and therefore facilitate the guards' ability to control, discipline, and rehabilitate the incarcerated. This design enabled guards and wardens to peer into every cell and continuously supervise the prisoners while at the same time remain hidden from view. This act of unseen surveillance was supposed to make prisoners eventually discipline themselves. For Foucault, this act of self-discipline was the ultimate example of the state's ability to control and dominate society through the implementation of modern methods of governance.<sup>1</sup>

These modern instrumentalities of governance, as imposed within the prison, include tedious time schedules, monotonous work details, isolation, constant surveillance, religious instruction, and 'rehabilitating' labor. The prison guard is the key to maintaining order and discipline within the prison and for the rehabilitation of the

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<sup>1</sup> See Michel Foucault's *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1977), pp. 195-230.

incarcerated. According to Foucault, prison officials and especially guards are the definitive representatives of state power to prisoners who, in turn, epitomize society's disorder, unruliness, and menace to the 'common good.'<sup>2</sup>

There are, however, very important aspects of the panopticon and prison guards that Foucault failed to recognize. First of all, the panopticon was never actually built as a prison in France, let alone Europe. Therefore, Foucault's emphasis on it is a bit of a moot point. Second, the purpose of the panopticon's architectural design was also intended to discipline the prison cadre, not only the incarcerated. Finally, Foucault never acknowledged or took into account how corruption and collusion between prison guards and the incarcerated cause discipline and order to breakdown. In other words, the state, as represented by the guards, also needed to be disciplined, thus breaching the supposedly impenetrable barrier and upending the unidirectional flow of power and influence which Foucault drew between 'state' and 'society.'<sup>3</sup>

The origins of the panopticon are found in eighteenth-century Russia during the reign of Catherine the Great. Jeremy Bentham's brother, Samuel was the first to invent the panopticon design. The design, however, was for a factory, not a prison.<sup>4</sup> In addition to the penitentiary, the military, the hospital, and the asylum, the factory can also

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<sup>2</sup> Ibid.

<sup>3</sup> For an important critique and analysis of the debate regarding the artificially rigid divide between 'state' and 'society' established by social scientists and Foucault, see Timothy Mitchell, "The Limits of the State: Beyond Statist Approaches and their Critics" in *American Political Science Review*, vol. 85, no. 1 (March, 1991), pp. 77-96.

<sup>4</sup> Simon Werret, "Potemkin and the Panopticon: Samuel Bentham and the Architecture of Absolutism in Eighteenth Century Russia" URL: <http://www.ucl.ac.uk/Bentham-Project/journal/nlwerret.htm>.



be classified as a 'total institution.' Erving Goffman coined this phrase and defined a 'total institution' as "a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life."<sup>5</sup> Total institutions employ modern technologies of surveillance and discipline in order to control nearly every aspect of a person's life. They are also quintessential examples of the modern nation-state, whose development is essential to the centralization of state power.

Samuel Bentham's factory panopticon, similar to his brother's prison panopticon, was designed to facilitate discipline, order, and efficiency through maximum surveillance of the 'subject.' Most significantly, the 'subjects' of Samuel Bentham's factory panopticon also included the foremen. In fact, it appears that the supervision of the foremen was the primary and original purpose of Samuel Bentham's design. If the factory owner or manager could control and discipline the foremen, s/he in turn had greater control over the laborer, thus improving factory discipline, productivity, and profits on all levels.<sup>6</sup> Foucault misses this important aspect in his analysis of the intent, power, and purpose of Jeremy Bentham's prison panopticon.<sup>7</sup>

Disciplining the disciplinarians or the professionalization of the prison cadre and other employees of penal institutions is a central aspect of prison reform that is often overlooked by penal scholars. It is, however, vital to understanding the Committee of

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<sup>5</sup> Erving Goffman, *Asylums: Essays on the Social Situation of Mental patients and Other Inmates* (Chicago, 1962), p. 4.

<sup>6</sup> See Werret.

<sup>7</sup> See Foucault, pp. 195-230.

Union and Progress' attempts at penal and imperial reform and state centralization of power during the Second Constitutional Period. Through a close analysis of the stipulations, sources, and legitimation of CUP attempts to professionalize the Ottoman prison cadre and other aspects of prison administrative reform, this chapter argues that the reformation of the prison cadre acted as the foundation for Ottoman prison reforms. Disciplining the disciplinarians was seen as the means of putting an end to corruption, prisoner abuse, and guard-prisoner collusion, thereby facilitating the rehabilitation of the criminal and the creation of a disciplined, centralized, well-ordered, modern, progressive, and civilized prison system. Because prisons acted as 'laboratories of modernity' for nation-state construction, the reformation of the prison cadre also acted as a key to imperial reform. The CUP's vision of the ideal prison guard directly paralleled its self-image as a body of elite technocrats or *savant* that would rescue the Ottoman Empire from ruin and destruction. The professionalization of prison cadre and general administrative reform within Ottoman prisons also represent broader CUP attempts at the centralization of state power during the Second Constitutional Period.

### **Creating the well-ordered Prison**

Prison order and discipline in the Ottoman Empire during the nineteenth century was woefully inadequate. Horrible conditions, relaxed regimens, dilapidated buildings, corruption, escapes, and abuse were common. This has been discussed in some detail in

chapter one. Notwithstanding the creation of the 1880 “Regulation for Prisons and Houses of Detentions,” this regulation was never implemented or even officially ratified. Numerous prisons were been built during the Hamidian era. However, none were up to modern standards of health and hygiene or architectural design. In addition to this, there was a general lack of regular funding for prisons or programs for their management and upkeep.<sup>8</sup> Periodic foreign and Ottoman inspections of the empire’s prisons, such as those conducted by Ambassador Canning’s Ottoman prison survey, Abdülhamid’s “Commission for Expediting Initiatives and Reforms” (*Tesri-i Muamelat ve Islahat Komisyonu*), and Ahmet Şerif confirm these assertions.<sup>9</sup>

The Young Turks, led by the Committee of Union and Progress, inherited these troubles when they took power in 1908. Solving them was a matter of high priority for the Committee of Union and Progress. Prison order and discipline was addressed on three interrelated fronts by the CUP: 1. the construction of new prisons, 2. new prison

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<sup>8</sup> See also Gültekin Yıldız’s “Osmanlı Devleti’nde Hapishane Islahatı (1839-1908),” MA Thesis (Marmara Üniversitesi: 2002), pp. 188-204 and chapter one of this work.

<sup>9</sup> See Sir Stratford Canning’s prison inspection reports are found in F.O. 195/364, F.O. 226/113, and F.O. 97/418. Regarding the inspection reports of the “Commission for Expediting Initiatives and Reforms” (*Tesri-i Muamelat ve Islahat Komisyonu*) are located in the Ottoman Archives (BOA) organized in two catalogues titled DHTMIKS. For the travel diaries of Ahmet Şerif, see *Ahmet Şerif ‘s Anadolu’da Tanin, I Cilt* and *Arnavudluk’da, Suriye’de, Trablusgarb’de Tanin, II Cilt*, prepared by Mehmed Çetin Börekçi, (Ankara: Türk Tarih Kurumu, 1999). Ahmet Şerif’s travel diaries offer important insights into the Ottoman Empire during this critical period. Unlike European travellers and their diaries of the Ottoman Empire, Ahmet Şerif was an educated Ottoman subject with the knowledge, intelligence, native language capabilities, and cultural understanding to enable his observations to have greater credibility. His account offers a critique of this time period in late Ottoman history, particularly regarding Ottoman state and local administrative affairs. One focus of his survey was prisons and hospitals. During his travels he visited several Ottoman prisons and jails (*hapishaneler ve tevkifhaneler*) throughout Anatolia, the Balkans, Syria, and Lebanon. His travels corroborate, at least in part, European observations that Ottoman prison conditions and administration did not reflect the 1880 “Regulation for Prisons and Houses of Detention.” In other words, prison conditions and administration was poor at best and atrocious at worst. His travels and accounts do, however, take place just before comprehensive prison reform was initiated by the CUP.

regimens and organization, and 3. the professionalization of the prison cadre. Efforts to realize fronts one and two both included the implementation of modern concepts of time and space. All three fronts, however, can trace their origins in the Ottoman Empire to the 1880 “Regulation for Prisons and Houses of Detention” (*Hapishaneler ve Tevkifhaneler Nizamnamesi*).

In 1880 the Ottoman Ministry of Justice issued the first comprehensive prison regulation for the empire. The 1880 “The Regulation for Prisons and Houses of Detention,” which is discussed in some detail in chapter one, meticulously details the responsibilities of all prison officials and employees. It also stipulates clear health and hygiene standards, prison labor, routines, prison organization, and the spatial separation of different classes of prisoners.<sup>10</sup> In other words, it was a thoroughly modern and progressive prison regulation according to nineteenth-century standards. It attempted to implement modern concepts of time and space in order to facilitate prison order, discipline, and organization for the maintenance of order and the rehabilitation of the incarcerated. If implemented, this regulation would have engaged in the ‘production of space’ by maximizing and centralizing the power of the prison administration over the incarcerated through the utilization of spatial relationships in order to control and subdue prisoners and facilitate their ‘rehabilitation.’<sup>11</sup> Notwithstanding its complete lack of implementation during the Hamidian era, the 1880 “Regulation for Prisons and Houses of

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<sup>10</sup> BOA, DHMBHPSM 1/2 doc. 10.

<sup>11</sup> This phrase is taken from Henri Lefebvre’s seminal work *The Production of Space*, trans. Donald Nicholson-Smith, (Oxford: Blackwell, 1991).

Detention” did lay the foundation and acted as the template for CUP prison reforms during the Second Constitutional Period in several important aspects, namely for prison administration, prison health and hygiene, prison labor, the duties and offices of prison employees and officials, and the implementation of modern concepts of time and space within the empire’s prisons.

### **New Prison Architecture, Regimens, and Labor**

Just as Jeremy Bentham’s prison panopticon design utilized modern concepts of spatial relationships in order to facilitate surveillance, discipline, and order in European penitentiaries, so did the CUP’s as a part of its prison administrative reform. The Ottoman Prison Administration drew up new architectural designs; constructed new prisons and repaired old ones; prepared and promulgated new regulations; and implemented new prison regimens in order to centralize power and instill discipline, order, cleanliness, and industriousness within the prison for both prisoners and employees. As early as 1910, the CUP began its attempts to remedy the awful conditions of Ottoman prisons by establishing a commission for the purpose of producing a general plan for prison reform. A central aspect of this committee’s responsibilities was the construction of new prisons.<sup>12</sup> This commission formulated a comprehensive prison construction program and architectural design for the empire’s prisons that was initiated

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<sup>12</sup> See BOA, DHMBHPS 142/54.

in late 1911 and early 1912.<sup>13</sup> Notwithstanding these attempts at reform and construction, prison conditions around the empire were still poor for at least two reasons. One, this comprehensive prison reform program was suspended as a result of the CUP temporarily losing power between the summer of 1912 and January 1913. Two, by their very nature comprehensive reforms take time and vast sums of money to implement.

Shortly after its hiatus from power, in 1914 the CUP initiated and conducted another comprehensive prison survey of the condition of the empire's prisons. Similar to the annual Ottoman Prison Survey, this survey or questionnaire (*sual varakası*) was distributed to every prison in the empire. This new, one time survey contained a questionnaire regarding the state and condition of each prison facility. This survey was unique, because it called for local prison administrators to write extensive comments and suggestions about the specific needs of their respective prisons.<sup>14</sup> To make their cases some prison directors included photographs of their facilities demonstrating the horrific

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<sup>13</sup> See BOA, DHMBHPSM 1/6, 1/24, 2/17, and DHMBHPS 43/7.

<sup>14</sup> The general directives for this survey are contained in BOA, DHEUMMTK 13/11, 54/4, BOA, DHMBHPSM 9/59, and BOA, DHMBHPS 72/46. Each province and independent administrative district returned these completed questionnaires. For Adana: DHMBHPSM 11/84; Ankara: DHMBHPSM 11/26, DHMBHPS 57/39, and 154/40; Aydın: DHMBHPSM 10/6 and 11/18; Baghdad: DHMBHPSM 12/75; Beirut: DHMBHPSM 10/19; Bitlis: DHMBHPSM 10/10, 10/31, 11/8, 11/32, 11/43, 11/71, and 13/1; Bolu Sancak: DHMBHPS 149/17; Canik Sancak: DHMBHPSM 10/4; Çatalca Sancak: DHMBHPSM 9/94; Diyarbakır: DHMBHPSM 12/18 and DHMBHPS 10/51; Edirne: DHMBHPS 149/6 and 149/9; Erzurum: DHMBHPSM 9/103 and 11/31; Halep: DHMBHPSM 10/40; Hijaz: DHMBHPS 149/12 and DHMBHPSM 11/7; Hüdavandigar: DHMBHPS 149/11; Istanbul: DHMBHPSM 9/96; Izmid Sancak: DHMBHPSM 9/106; Kala-i Sultaniye Sancak: DHMBHPSM 10/13; Karesi Sancak: DHMBHPSM 10/14; Kastamonu: DHMBHPSM 10/25 and DHMBHPS 152/35; Konya: DHMBHPSM 10/15; Mamüretülaziz: DHMBHPSM 12/21; Mosul: DHMBHPSM 12/33; Sivas: DHMBHPSM 10/52; Syria: DHMBHPSM 11/27; Trabzon: DHMBHPSM 11/25 and 18/62; Urfa Sancak: DHMBHPSM 10/5; Van: DHMBHPS 149/36; Yemen: DHMBHPSM 12/31, DHMBHPS 149/49 and 150/74; Zor Sancak: DHMBHPSM 11/24.

condition of their prisons.<sup>15</sup> Other prison administrators included proposed architectural designs for prisons they wanted built in their districts.<sup>16</sup>

The photographs submitted by the director of the Karesi central prison are graphic illustrations of the terrible state in which many of the empire's prisons existed (see Figures 5-1, 5-2, 5-3, and 5-4). They also illustrate just how much work the Ottoman Prison Administration had in store for itself if it was committed to comprehensive penal reform. Photographs from this provincial prison show that prison conditions were very crowded. Prisoners were housed in tiny hovels containing two and even three prisoners in each cell. The roofing and walls of the prisoners' quarters were made of simple wood or canvas and were terribly dilapidated. Many prisons were located next to or within the compounds of fortresses and other government buildings, which were not properly enclosed. These prison conditions made escape a common occurrence. According to archival records, throughout the Second Constitutional Period there were constant problems with overcrowding and prisoner escapes. In fact, in several reports sent to the Ottoman Prison Administration, overcrowding, poor conditions, and lack of supervision and discipline were listed as the main reasons for prison breakouts.<sup>17</sup>

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<sup>15</sup> See BOA, DHMBHPSM 10/14 docs. 12-15. These photographs constitute Figures 5-1, 5-2, 5-3, and 5-4.

<sup>16</sup> See BOA, DHMBHPSM 9/103, 10/14, and 11/84.

<sup>17</sup> See the four catalogues for the Ottoman Prison Administration-one catalogue entitled DHMBHPSM and three catalogues entitled DHMBHPS. There are nearly five hundred files containing thousands of documents on prisoner escapes during the ten years of the Second Constitutional Period. A sampling of the internal documents of the administration dealing with escapes include BOA, DHMBHPS 96/12, 101/2, 101/3, 101/4, 101/5, 103/31, and BOA, DHMBHPSM 2/20, 5/4, 7/70, 7/95, and 43/9.

Internal order, security, and discipline were also severely lacking. As can be observed in the prison photographs from Karesi, prisoners were not subject to work details, nor were they gainfully employed. Most prisoners sat idle throughout the day, drinking tea, smoking, and playing cards or backgammon.<sup>18</sup> Supervision was also minimal. Karesi prison only employed six prison guards (*gardiyanlar*), who received a monthly salary of 200 *kuruş*.<sup>19</sup> Judging by the photographs, six prison guards were hardly adequate for the number of prisoners incarcerated at Karesi.<sup>20</sup> It also appears that there was no separation of prisoners according to crimes committed or whether or not they had been sentenced or were awaiting trial. Until the comprehensive prison reform programs of the Committee of Union and Progress, there were not enough prison guards to watch over and supervise the prisoners, because of a lack of funds.

This lack of internal order, supervision, and discipline combined with the awful living conditions in which prisoners lived led to riots, fights, and prison insurrections. For example, in 1913 a fight among prisoners broke out in the Siirt administrative district (*sancak*) in the province (*vilayet*) of Bitlis resulting in the injury of several prisoners. The fight was attributed to the smuggling of sharp instruments (*kesici aletleri*) into the

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<sup>18</sup> Major Arthur Griffiths' *The History and Romance of Crime: from the earliest times to the present day*, vol. Xii, *Oriental Prisons* (London: 1910), pp. 280-84.

<sup>19</sup> For the number of prison guards and other employees at Karesi Central Prison in 1914-15 see BOA, DHMBHPS 154/14, doc. 67.

<sup>20</sup> See Figures 5-1, 5-2, 5-3, and 5-4 for an estimate of the number of prisoners incarcerated at Karesi.



prison.<sup>21</sup> No doubt, much smuggling occurred in Ottoman prisons with the consent of prison guards.<sup>22</sup> Prison fights similar to the one in Siirt were common place in Ottoman prisons. Archival records attest to numerous uprisings, disturbances, and other occurrences of disorder throughout the Ottoman prison system and the Ottoman Prison Administration's strenuous attempts to prevent such activities.<sup>23</sup>

Other prisons were located in local governmental buildings (*konaklar*) or had their own separate structures. The vast majority of these prisons, and all others for that matter, suffered from atrocious sanitary condition caused by poor ventilation and lighting, an inadequate potable water supply, and a lack of running water. Most prisons had no washing facilities and toilets consisted of a hole dug in the earth for communal use. Prison regimens stipulating regular cleanings of the prison facility and hygienic measures for prisoners were not implemented. As a result, outbreaks of cholera, typhoid

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<sup>21</sup> See BOA, DHMBHPSM 8/68. Smuggling and prisoner-guard collusion, corruption, and smuggling were very common in Ottoman prisons as attested to in the prison administration's documents. This of course is not surprise, since prison-guard collusion is a common practice in almost every prison.

<sup>22</sup> Regarding prison corruption and prisoner-guard collusion see BOA, DHMBHPS 73/33, 105/9, 89/61, 73/15, 73/25, 106/35, 99/14, 81/66, 83/15, 85/15, 149/50, 94/64, 137/18, 134/64, and 131/24. The topic of corruption and prisoner-guard collusion is discussed in greater detail below.

<sup>23</sup> See BOA, DHMBHPSM 8/74 as an example of prison administrators successfully preventing and minimizing fights and disputes at the Trabzon Central Prison in 1913. A few examples of the scores of fights (*kavgalar*) and riots (*isyanlar*) which occurred in Ottoman prisons during the Second Constitutional Period include BOA, DHMBHPS 4/29 from Konya in 1914 (crowded, constricted, and unsanitary conditions were suggested as the cause for this disturbance); in Amasya in 1913, according to BOA, DHMBHPS 72/12, excessively crowded conditions led to a fight; in Manisa in 1913, according to BOA, DHMBHPS 148/35, a fight resulted in the death of a prisoner and the injury of several others; and in Konya's Central Prison in 1912, according to BOA, DHMBHPS 111/3, guard misconduct led to the outbreak of a fight resulting in the injuries of several prisoners. Regarding riots (*isyanlar*), in 1912 one broke out in the Izmir Central Prison, according to BOA, DHMBHPS 96/16. This riot was directed against the warden because of alleged neglect of the prisoners. In 1914, prisoners in the Cenin prison rioted in protest against some of their own being transferred to the Beirut Central Prison. This riot resulted in the injuries to some prisoners and gendarmes, see BOA, DHMBHPSM 17/23.

fever, typhus, and other communicable diseases were rampant in the squalid and fetid conditions under which prisoners suffered. These conditions resulted in numerous deaths each year.<sup>24</sup> Issues related to poor health and hygiene, as illustrated in Figures 5-1, 5-2, 5-3, and 5-4, constituted a major source of concern and focus for the newly established Ottoman Prison Administration.<sup>25</sup> In fact, when announcing their first comprehensive prison reform program in April of 1912, the Ottoman Prison Administration justified the renovation of existing prisons and the construction of new prisons by claiming these reforms would bring the health and hygiene conditions of Ottoman prisons into conformity with the “laws of civilization.”<sup>26</sup> Additionally, the existence of unsanitary conditions was the most common reason cited by local prison administrators as justification for the construction of new prisons.<sup>27</sup>

During the Second Constitutional Period, the Ottoman Prison Administration viewed the design and construction of modern prisons as the remedy to these awful sanitary conditions. These new prison architectural designs incorporated the latest

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<sup>24</sup> For instance in 1918, a Typhus fever epidemic hit Yozgat, which was an administrative center (*sancak merkezi*) of the Ankara province (*vilayet*). Archival documents from the Ottoman Prison Administration indicate that hundreds of prisoners died as a result. See BOA, DHMBHPS 79/17, 80/60, and 80/63.

<sup>25</sup> There exists extensive documentation regarding issues of health and hygiene in Ottoman prisons. In fact, documents related to health and hygiene issues constitute the single largest type of document found in the Ottoman Prison Administration’s catalogues (DHMBHPS and DHMBHPSM).

<sup>26</sup> The exact phrase is *kuvaid-i mediniye*. This phrase can be interpreted as laws/principles or doctrines of civilization and can have a distinctive religious connotation, which in this context possesses interesting connotations. See BOA, DHMBHPS 145/31.

<sup>27</sup> See the returned prison questionnaires (*sual varakaları*) from the 1914 survey cited in footnote seventeen of this chapter. Also see BOA, DHMBHPSM 10/23 from the Trabzon Central Prison which “requests a new prison in order to prevent deaths as a result of poor sanitary conditions (*Gayrı sıhhi şartları haiz Trabzon Merkez Hapishanesi’ndeki ölümlerin önlenmesi için yeni bir hapishane yapılması talebi*).”

developments and standards in order to facilitate proper health and hygiene, discipline and surveillance, and to promote prisoner rehabilitation through labor. Through the production of special modern spatial relationships these new prisons would remedy the problems of disorder and death which typified the prisons of the *ancient régime*.

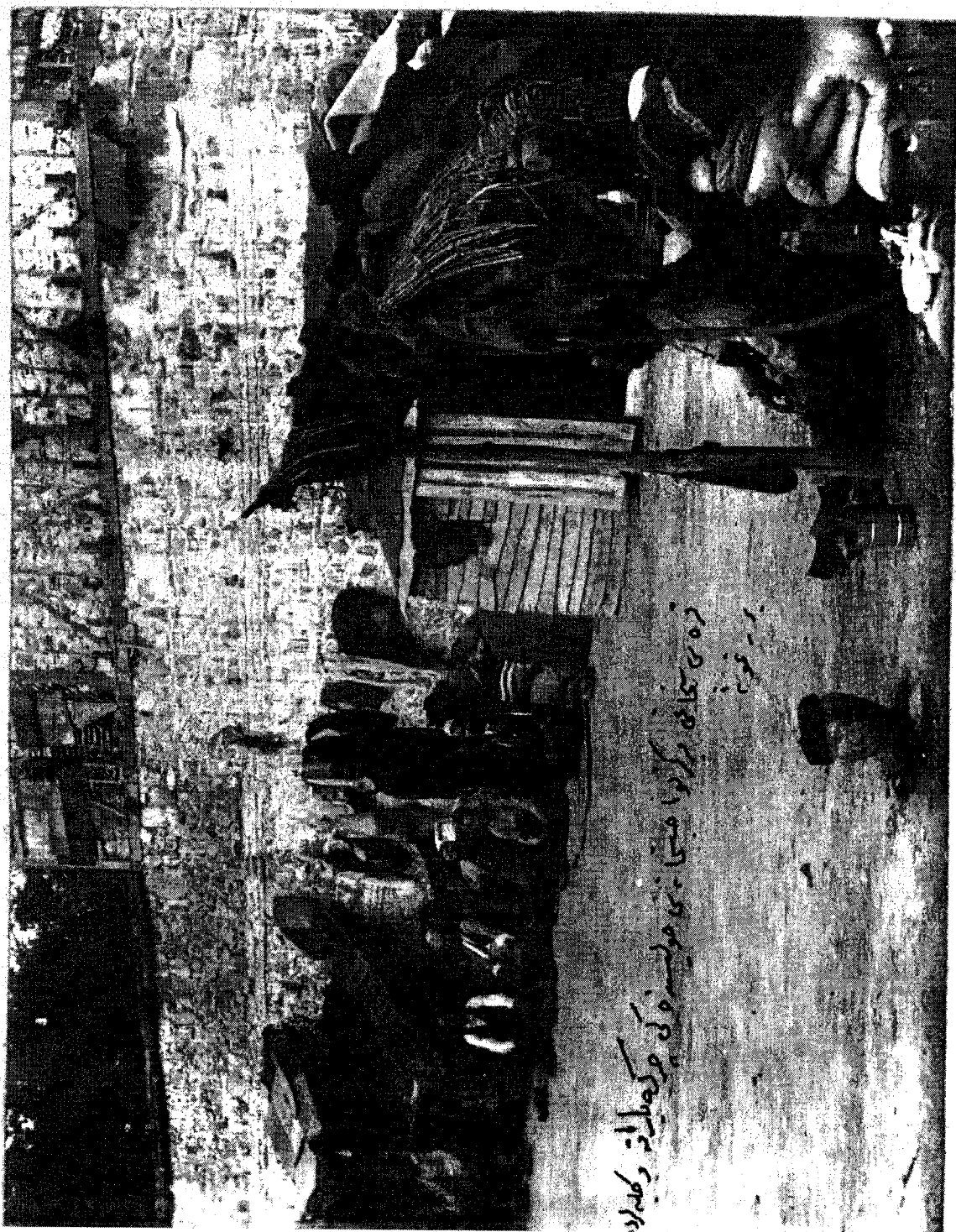


Figure 5-1: Courtyard of Karesi central prison. BOA, DHMBHPSM 10/14, doc. 12.

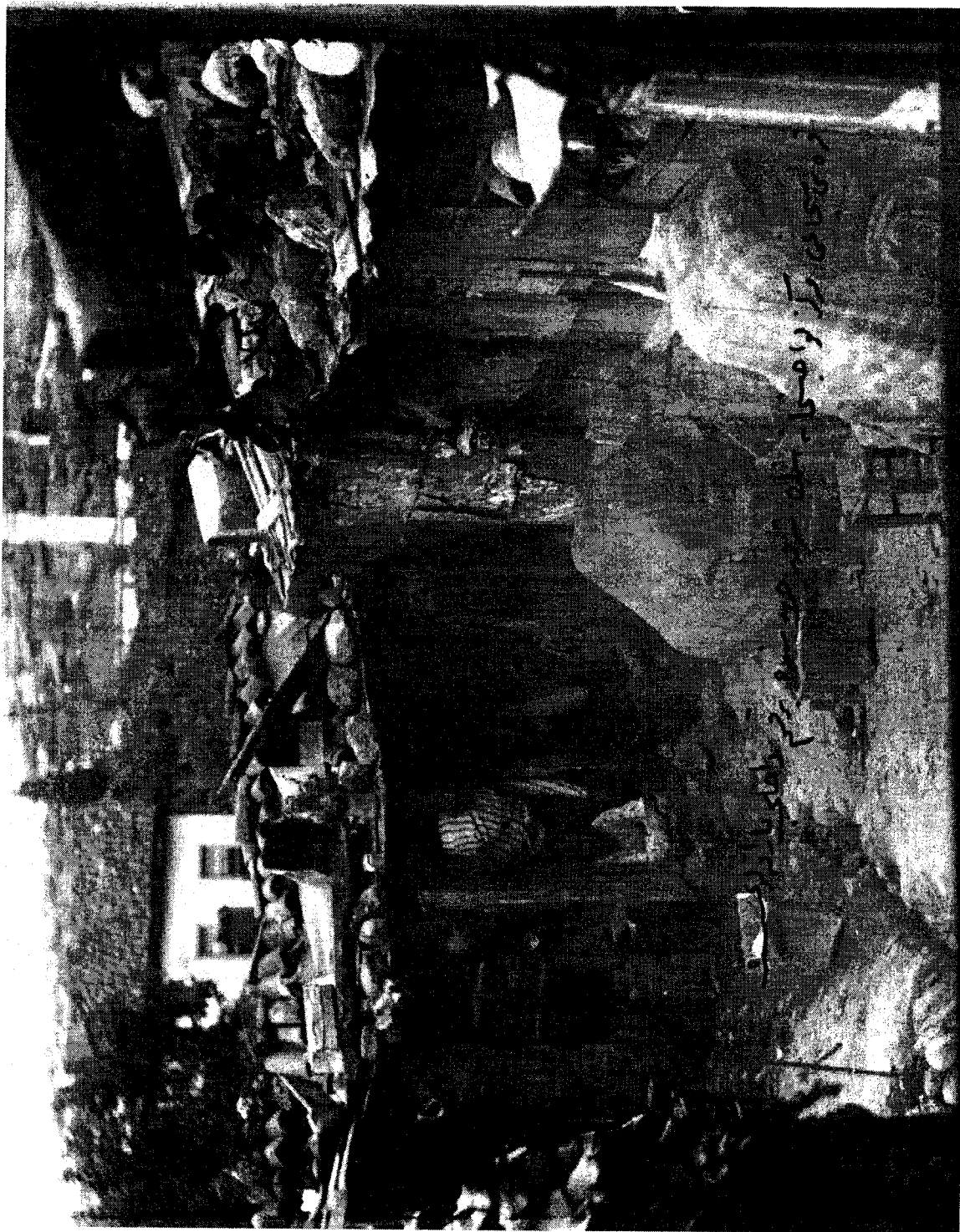


Figure 5-2: Karesi Central Prison, BOA, DHMBHPSM 10/14, doc. 13.



توره سنجایی مرکز لول صبخا رسله ده فلی قاتر سولسل برقم منلا کک

Figure 5-3: Karesi Central Prison, BOA, DHMBHPSM 10/14, doc. 14.



Figure 5-4: Karesi Central Prison, BOA, DHMBHPSM 10/14, doc. 15.

In order to create the environment, which would bring the health and hygiene of Ottoman prisons in conformity with the ‘laws of civilization,’ each new prison was to include washrooms (*çamaşırhaneler*), toilets (*apteshaneler*), running water, electricity, proper ventilation, dormitory style rooms where prisoners of similar criminal convictions would be housed together, courtyards for exercise, and kitchens (*mutfaklar*). Each prison would also include a separate hospital or infirmary depending on the capacity of the prison in order to isolate the sick from the healthy. Costs of medicine and treatments were delineated in prison budgets and reported to the central prison administration. New regimens were also introduced regarding cleanliness, such as regularly cleaning prisons, whitewashing prison walls with a lye disinfectant, changing and washing the prisoners’ clothing and bedding, regular mandated baths, and the washing of hands prior to eating. Finally, each prison was required to employ a doctor. If the prison was small (on the sub-district administrative level (*kaza*), several prisons in the same area collectively employed a physician.<sup>28</sup> These seemingly simple and obvious practices and procedures were initially mandated by the 1880 “Regulation for Prisons and Houses of Detention,” however they were not implemented until after the CUP came to power.

Regarding the facilitation of increased prison order and discipline via the creation of new spatial relationships, new prisons included separate areas designated for male and female prisoners. These two areas were to be divided into separate sections for prisoners awaiting trial and those already convicted. These new spatial separations were

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<sup>28</sup> See the prison employment statistics forms listed in footnote forty-nine of this chapter and the 1880 “Regulation for Prisons and Houses of Detention,” BOA, DHMBHPSM 1/2, doc. 10.



legitimated according to European standards. In order to prevent recidivism and the corruption of less serious offenders by more hardened ones, it was important to keep different classes of criminals separate, but even more importantly it was necessary to keep those awaiting trial away from those who had already been convicted. Another important aspect of these new spatial relationships was the separation and removal of children from adults within the prison. In fact, children under the age of fourteen were completely removed from prisons and placed in reformatories (*islahhaneler*). Additionally, prisoners between the ages of fifteen and nineteen were still incarcerated in regular Ottoman prisons. They now, however, received reduced sentences in comparison with their adult counterparts and they were separated from adults by being placed in specially designated areas within the prison.<sup>29</sup> New and refurbished prisons also included special quarters for prison employees, such as offices, work and guard rooms, observation posts and towers, and sleeping quarters. The style and capacity of prisons varied according to their location, whether they were in large urban areas or smaller administrative districts. Prison capacities ranged from between sixty to a thousand prisoners. Although none of these new prisons were constructed according to Jeremy Bentham's panopticon prison design, these prisons did utilize modern concepts of spatial organization in order to facilitate the maintenance of order, security, and discipline and to create modern, civilized penal institutions (see Figures 5-5, 5-6, 5-7, and 5-8).<sup>30</sup>

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<sup>29</sup> The topic of children in prisons is discussed in great detail in chapter six.

<sup>30</sup> Figures 5-5, 5-6, 5-7, and 5-8 are actual architectural designs utilized by the Ottoman Prison Administration.

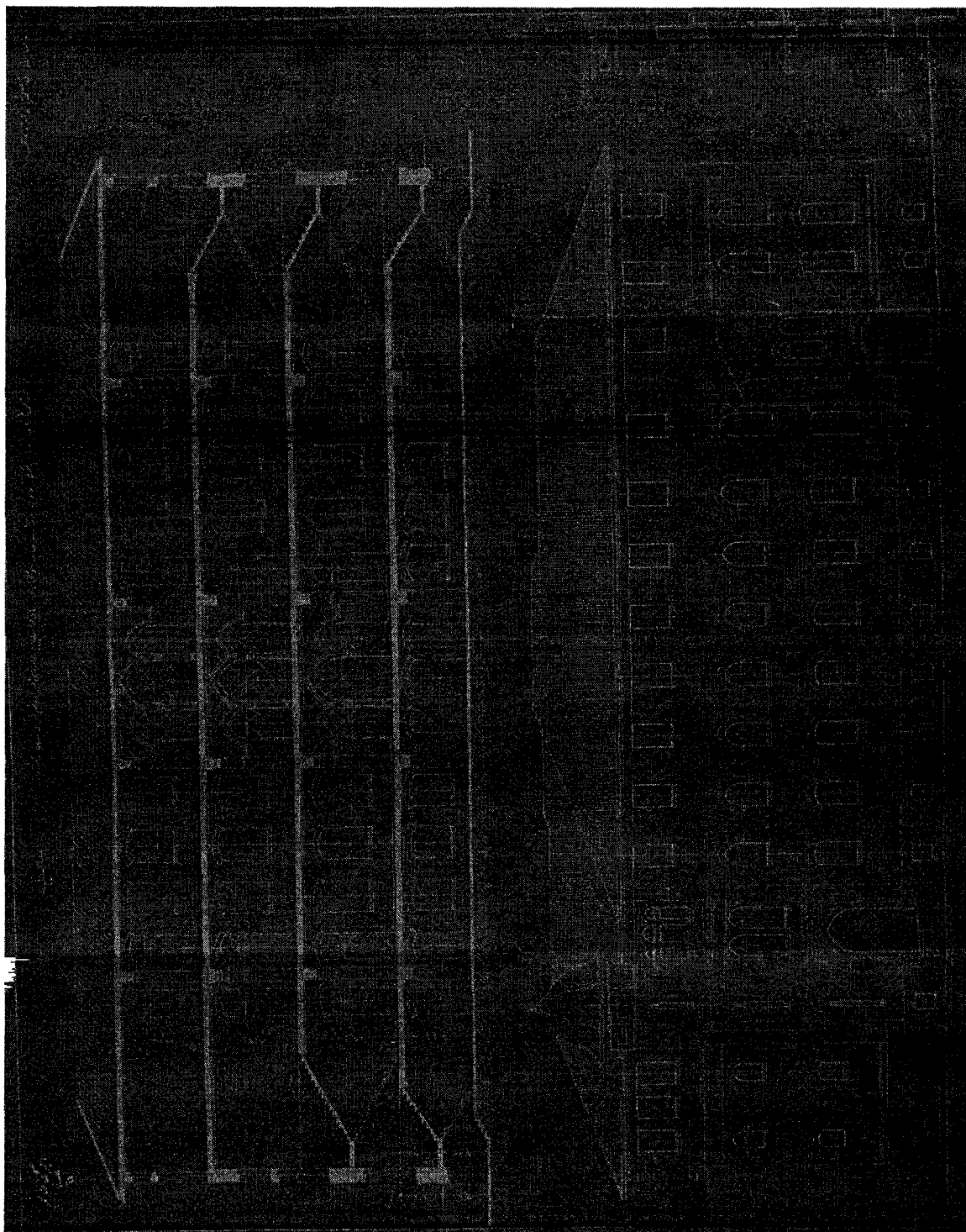


Figure 5-5: The exterior architectural design of the *Dersaadet Cinayet Tevkifhanesi* (Istanbul Jail for Serious Offenders). See BOA, DHMBHPSM 7/108.

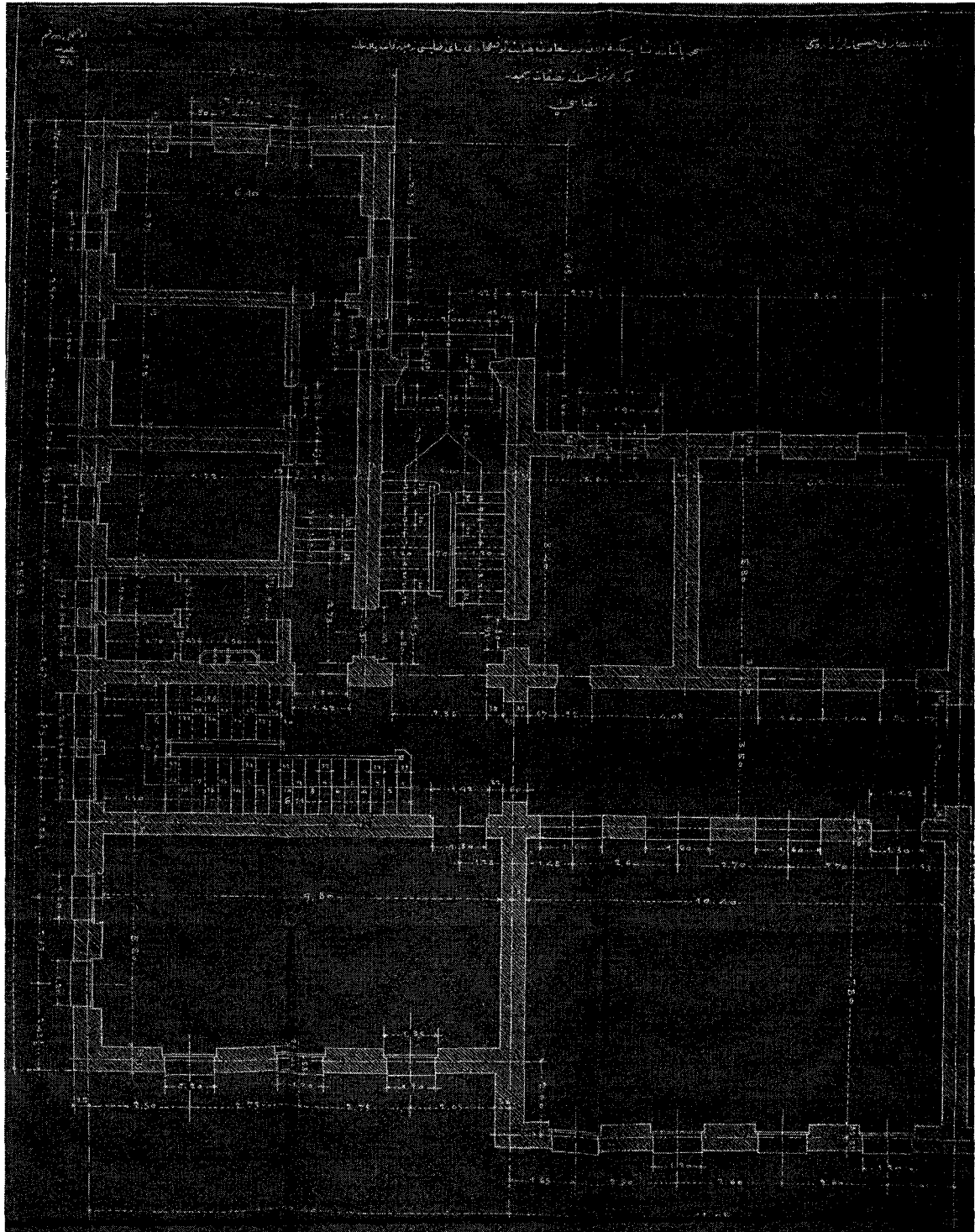


Figure 5-6: This architectural plan is for the third floor of the *Dersaadet Cinayet Tevkifhanesi* (Istanbul Jail for Serious Offenders). See BOA, DHMBHPSM 7/108.

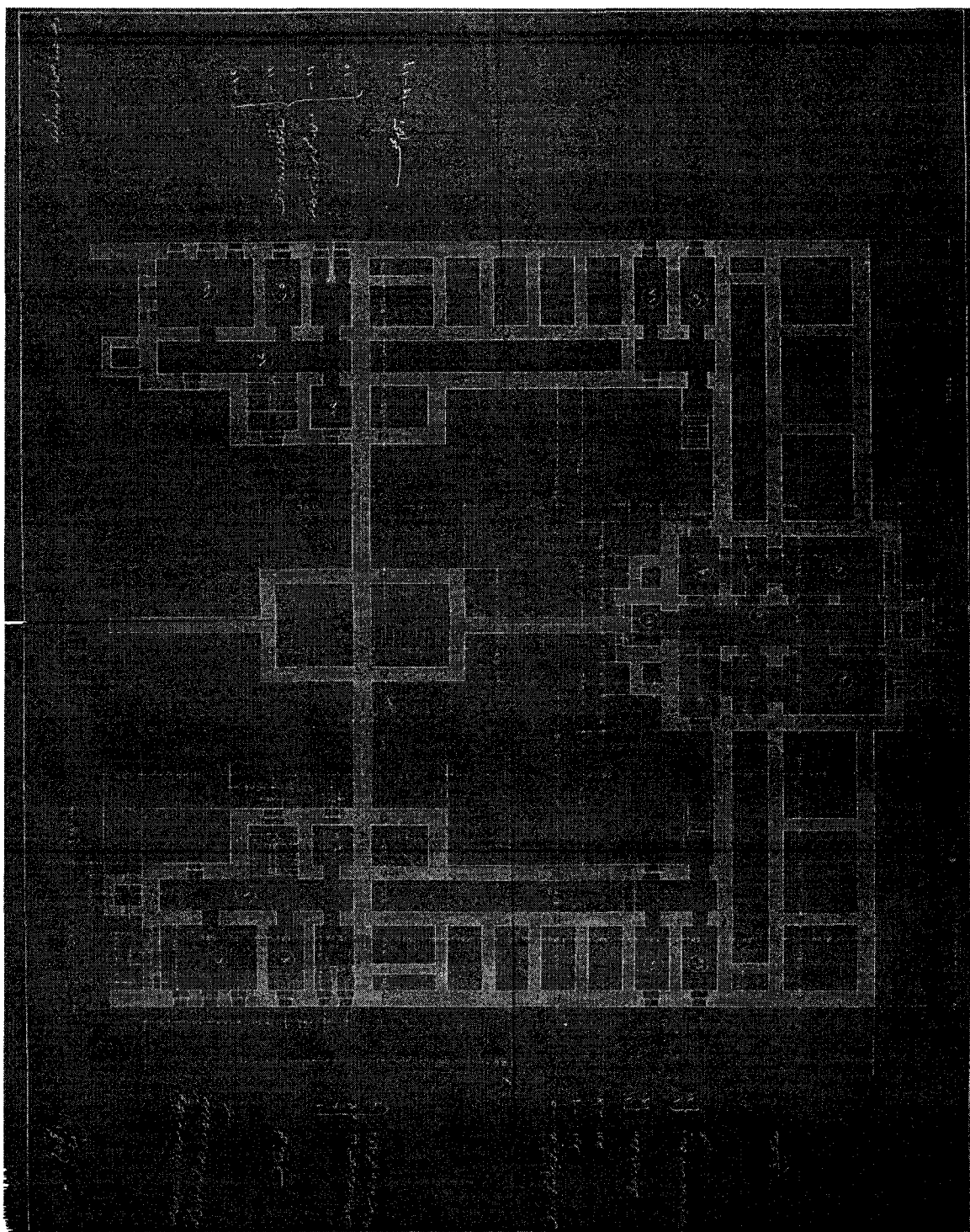


Figure 5-7: Prison architectural design intended for an administrative sub-district (*kaza*). Notice the different areas designated such as toilets, female prisoners' area, washrooms, etc.

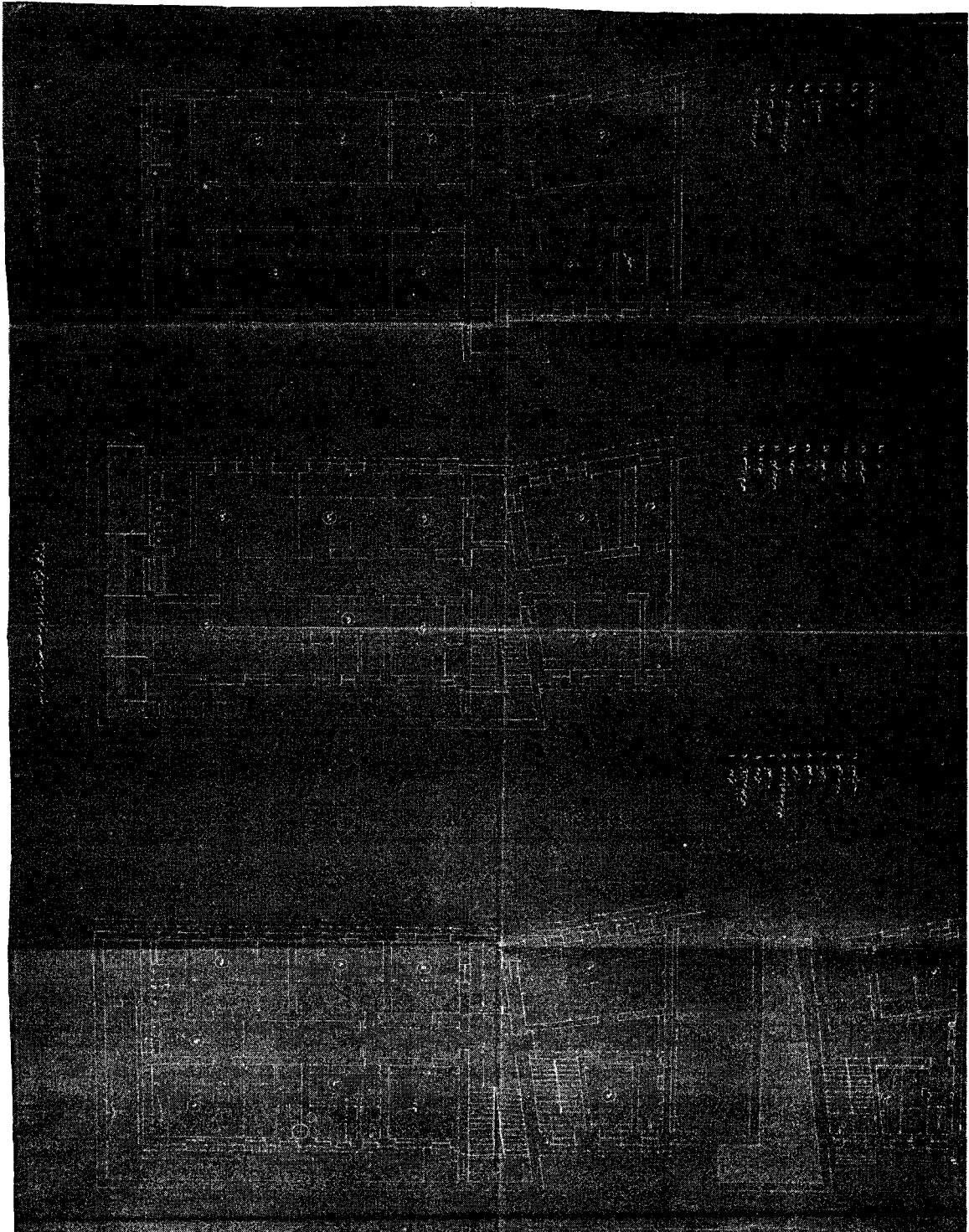


Figure 5-8: The Architectural design for Beyoğlu Prison (tevkifhane) consisting of three floors and exhibiting a clear organizational pattern to facilitate the separation of various kinds of prisoners.

In addition to improved prison discipline, security, and order through the construction of prisons with better sanitary conditions, new prison regimes, and special spatial arrangements, the introduction of prison labor and the creation of prison factories was also an important aspect of providing the empire with modern penitentiaries. In addition to facilitating easier supervision of prisoners by keeping them occupied with attention directing labor, the creation of prison factories had three other important functions for Ottoman prison reformers. First, according to the assumptions of nineteenth and early twentieth century prison reformers, productive labor was an essential element in the rehabilitation of prisoners. This labor would keep them constructively occupied, thus preventing slothful behavior through the pursuit of lascivious activities and idleness. It also provided prisoners with useful occupational skills which would allow the prisoner to contribute to society in a beneficial manner upon his/her release. In this way, the prisoner was rehabilitated and shaped into a productive member of society, thus making it possible for her/him to avoid recidivist criminal activities.

Second, prison labor is inexpensive, readily available, reliable, and relatively stable. Factory space, housing, healthcare, worker discipline, and supervision are already available and for which the state is responsible to provide and remunerate. In other words, by utilizing prison labor the entrepreneur's costs are minimized, thus making it possible to gain an advantage on the open market.

Finally, prison factories were supposed to 'stimulate' the local economies in which they were located. As discussed briefly in chapter two, prison factories were established to help pay for prison reforms in 1911, however, they were also justified as a

means to stimulate the local economies in major urban centers, such as Istanbul, Ankara, Beirut, Damascus, Izmir, Edirne, among others.<sup>31</sup> Half of the net profits gained in the sale of these manufactured goods were to go to the Ottoman exchequer for the benefit of the Ottoman treasury. These funds would then be used for industrialization and economic programs in the cities where the factories were located, thus assisting the CUP in its industrialization and economic development program for the empire.<sup>32</sup> In fact, Ottoman prison factories had a dual purpose of rehabilitating both the prisoner and the Ottoman economy, thus making prisons doubly effective as ‘laboratories of modernity.’ In other words, prison factories were an important aspect of imperial economic regeneration through industrialization. They facilitated the development of the Ottoman industrial complex and a local Muslim entrepreneurial middle class that could compete with inexpensive, mass produced foreign goods. The initial construction of these prison factories were some of the first steps taken by the CUP as part of the implementation of their plan to create an Ottoman ‘national economy’ (*milli iktisat*).<sup>33</sup> This plan of creating

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<sup>31</sup> For basic information on the establishment of labor prisons and the corresponding archival references see Yasemin Gönen’s “Osmanlı İmparatorluğunda Hapishaneleri İyileştirme Girişimi, 1917 yılı” in Emine Gürsoy (ed.) *Hapishane Kitabı* (Istanbul: Kitabevi, 2005), pp. 173-83.

<sup>32</sup> According to BOA, DHMBHPSM 8/3, doc. 20 and 25, the prison factories, which were built in Aydın, Edirne, and Istanbul in order to produce textiles, cabinets, and shoes, yielded great results, especially Edirne’s. The 1912 Ottoman Prison Survey also collected information on the manufacturing output of these Ottoman prison factories. See BOA, DHMBHPSM 4/4, doc. 9 (backside) for the costs, purchases, materials, items produced, and profits of the Istanbul prison factory. For Edirne’s prison factory production details see BOA, DHMBHPSM 4/1, doc. 25 (backside).

<sup>33</sup> CUP economic policies and programs constitute a vast literature demonstrating that the CUP was intent on creating a ‘national economy’ via the establishment of a Muslim bourgeois entrepreneurial class. This new industrial class was to be established through ‘state-interventionism’ as opposed to free trade. For a brief synopsis of CUP economic policies see Zafer Toprak, “From Liberalism to Solidarism: The Ottoman Economic Mind in the Age of the Nation State (1820-1920)” in Raoul Motika, et al., *Studies in Ottoman Social and Economic Life* (Heidelberg: Heidelberger Orientverl., 1999), pp. 171-90; Feroz Ahmad,

a 'national economy' was not put into full effect until after the assassination of Mahmut Şevket Pasha and the CUP's full assumption of power over the Ottoman political and administrative system.<sup>34</sup> Therefore, the construction of Ottoman prison factories and their use to stimulate the local economies where they resided actually predates the implementation of the CUP's 'national economy.' This demonstrates the critical role Ottoman prisons played as testing grounds for larger imperial projects.

The prison factory established in Edirne's central prison constitutes an excellent example of a successful textile factory built and funded by the central Ottoman state. Edirne's prison textile factory actually became the model prison factory upon which others were fashioned and built throughout the empire.<sup>35</sup> By 1917, there were over twenty-five prison factories in operation.<sup>36</sup> As late as November 1917, Dr. Paul Pollitz, the Inspector General of Ottoman Prisons, was requesting and receiving funds in order to

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"Vanguard of a nascent bourgeoisie; the social and economic policy of the Young Turks (1908-1918)," *International Congress of the Social and Economic History of Turkey (1071-1920)*, (Istanbul: Hacı Tepe University, 1977), pp. 329-50; Kansu, *The Revolution of 1908 in Turkey*, pp. 79-80; and Berkes, *The Development of Secularism in Turkey*, pp. 335-37.

<sup>34</sup> Mahmut Şevket Pasha was Grand Vizer after the CUP counter coup of January 1913, however, he was not a CUP official or supporter. He controlled the Ottoman military and stood in the way of full CUP power consolidation until his assassination on 11 June 1913. The CUP now had full control over the entire Ottoman administration. For a detailed discussion of the effects of Mahmut Şevket Pasha's death on CUP power consolidation and centralization see Turfan, *The Rise of the Young Turks: Politics, the Military and Ottoman Collapse*, pp. 285-428.

<sup>35</sup> See DHMBHPSM 3/27. In this prison circular (*tamim*), the Edirne prison textile factory is declared an example for other industrializing prison factories ("*Edirne Hapishanesi'nde mahkumlara yaptırılmakta olan dokuma sanayiinin suret-i tatbikinin diğer hapishanelere de tavsiye edilişi*").

<sup>36</sup> See BOA, DHMBHPS 143/93 for prisons that were employing prisoners within the prison.



construct more prison factories and to develop prison lands for agricultural production.<sup>37</sup> These prison factories and farms were also incorporated into the Ottoman 'total war' effort. The farms and factories produced desperately needed items for the military and civilian population during the First World War.<sup>38</sup> The construction of prison factories and farms were seen as essential elements in achieving the creation of 'modern penitentiaries and prisons' which would benefit prisoners and the empire.

Newly constructed prisons designed according to the latest specifications, new prison regulations dictating detailed schedules and procedures for prisoners to follow regarding health, hygiene, and behavior, and the creation and proliferation of prison factories are obviously important aspects of creating and maintaining well ordered and disciplined prisons. All of the rules, regulations, and modern designs, however, are only as good as those who run them. This is why CUP prison reforms, first and foremost, centered on the professionalization of the prison cadre.

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<sup>37</sup> See BOA, DHMBHPS 119/23. At least some of the money for prison reforms carried out during the World War I by the CUP was funded by Germany, however the Germans were not pleased to see its loans and grants being spent in pursuits other than the war effort.

<sup>38</sup> During World War I, many of the prisoners were put to work in the agricultural and road repair sector to help assist the war effort, see chapter two for some details. The prison survey commissioned by Dr. Paul Pollitz in 1917 (BOA, DHMBHPS 143/93) contained a category requesting the numbers of prisoners being employed in activities for the 'common good' (*menafi umumi*). This undoubtedly referred to the prisoners to whom Dr. Pollitz indicated in his request for the number of prisoners who had special skills in agriculture and highway repair, for details see BOA, DHMBHPS 76/20, doc. 3.

## Prison Employees and Prison Regulations

Ideally speaking, prison guards are the front-line of state power, authority, discipline, and especially justice against the enemies of the state, namely criminals. However, very often the criminal and the guard are common bedfellows and the distinction between the two can be very murky. With the onset of the modern era, the spread of market relations, and the implementation of new methods of governance, ‘traditional’ societal bonds and relationships broke down. Ideally, this included the bonds of collusion linking guards and prisoners.

Within prison culture there is a long history of prisoner/guard collusion. Bribes, kickbacks, sexual favors, contraband, smuggling, assisted escapes, gambling, and so forth have been and still are common within prisons around the world. Ottoman documents detail numerous incidents of rampant corruption among prison cadre, wanton abuse of prisoners, and extensive collusion between cadre and the incarcerated. There are hundreds of reports and investigations regarding the occurrence of these types of incidents within Ottoman prisons during the Second Constitutional Period.<sup>39</sup>

One notorious example occurred in the Sinop General Prison (*Sinop Hapishane-i Umumisi*)<sup>40</sup> during January and February of 1913. The prison warden (*müdür*), Cemal

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<sup>39</sup> A sampling of these cases can be found in BOA, DHMBHPS 73/33, 105/9, 89/61, 73/15, 73/25, 106/35, 99/14, 81/66, 83/15, 85/15, 149/50, 94/64, 137/18, 134/64, and 131/24. DHMBHPS 131/24 is especially amazing. It consists of over two-hundred pages of investigations and reports concerning multiple cases of corruption within Ottoman prisons during the Second Constitutional Period, especially during World War I.

<sup>40</sup> According to the 1880 Regulation on Prisons and Places of Detention (*Hapishane ve Tevkifhane Nizamnamesi*), General Prisons (*Hapishane-i Umumisi*) were for serious criminals or felons sentenced to

Efendi, and his staff were placed under investigation for corruption and prisoner abuse. According to the reports of the investigation, based on depositions taken from prisoners, several guards were accused of abusing prisoners by placing them in chains (*pranga*), which practice had been outlawed for years, and for stealing and selling window frames, glass, iron, and numerous tools utilized for manufacturing goods in the prison's factory. A total of five prison guards (*gardiyan*) and two of their supervisors (*çavuş*) were punished and relieved of their positions.<sup>41</sup> This entire investigation and subsequent action began as a result of a petition written by a prisoner to the Ministry of Justice complaining of his treatment at the hands of the Sinop prison cadre in January 1913.<sup>42</sup> These types of incidents were exactly what the CUP was trying to prevent through reforming its prison cadre and the general administration of the empire's prison system.

The 1880 prison regulation lists the offices and responsibilities of all prison employees and officials. According to Article 9 of the 1880 prison regulation, prison personnel consisted of "a director (*müdür*), a chief scribe (*birinci katib*), assistant scribe (*ikinci katib*), a chief guardian/guard (*ser gardiyan*), guardians and gatekeepers (*gardiyanlar*), a physician (*tabib*), launderer (*çamaşırcı*), health personnel (*hastahane hademesi*), janitor/custodian (*işçi*), and an imam and/or clergyman (*imam ve iktiza eden*

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more than three years of incarceration. They were usually located in central administrative areas, such as provincial capitals and included prison factories and hard labor (see BOA, DHMBHPSM 1 / 2 doc. 10). They could also be referred to a *kürek*, which literally means 'oar' referring to the hard labor punishments of convicts serving in the Ottoman Imperial Navy's galleys.

<sup>41</sup> See BOA, DHMBHPS 147/47 doc. 1.

<sup>42</sup> All of the documents relating to this case contained in the Ottoman Prison Administrations catalogues are DHMBHPS 147/5, 147/12, 147/16, 147/17, 147/18, 147/19, 147/21, 147/23, 147/24, 147/25, 147/26, 147/27, 147/28, 147/29, 147/30, 147/31, and 147/47.

*memurin-i ruhaniyyeden*)...”<sup>43</sup> Not every prison employed all positions. In fact, most prisons in the smaller administrative sub-districts (*kazalar*) of the provinces only had one guardian to run the entire prison. This was primarily because the numbers of prisoners in the jail were so few. Most prisons located in provincial centers were fully staffed with a director, chief scribe, assistant scribe, physician, chief guardian, a number of guards, a launderer, a janitor/custodian, and occasionally an imam or clergyman.<sup>44</sup>

It is not the purpose of this chapter to go through the duties and regulations for each of these offices one by one. Suffice it to say that the 1880 regulation clearly stipulated the appointments, responsibilities, and in many cases the qualifications for each type of employee in Ottoman prisons. These conditions and requirements were never implemented during the Hamidian era. Beginning in 1911, however, the CUP attempted to implement the 1880 prison regulation to its fullest extent, particularly concerning the qualifications, duties, and responsibilities of Ottoman prison officials and employees. CUP efforts continued until 1919, but were ended as a result of the empire’s defeat in World War I, its ouster from power at the hands of the Allies, the dismemberment of the empire into several mandates.

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<sup>43</sup> BOA, DHMBHPSM 1/2 doc. 10, Article 9.

<sup>44</sup> Ibid.

## Disciplining the Disciplinarians

As part of its broader centralizing program, the CUP in September of 1911 established the Ottoman Empire's first centralized prison administration, the General Prison's Bureau (*Hapishaneler İdare-i Umumiyesi*).<sup>45</sup> This directorate was attached to the Ministry of the Interior and immediately began collecting extensive and detailed statistics on every aspect of Ottoman prisons. On October 5, 1911 a directive and statistical form were distributed to every Ottoman prison requiring information pertaining to prison employees. According to the directive, at the end of every month each prison was to report changes in the employment status of its prison cadre. The information requested included the names, positions, responsibilities, dates of hire, and salaries of every prison employee.<sup>46</sup> This directive is a clear case of the Ministry of the Interior and the Ottoman Prison Administration's attempt to centralize power, monitor, and control prison employment practices. How can an organization professionalize and improve its administrators if it does not keep track of who is employed, their positions and salaries, and their dates of hire and release? During the first quarter of 1912 most of the provinces and independent administrative districts (*liva* or *sancak*) returned their completed

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<sup>45</sup> See BOA, DHMBHPSM 8/3 doc. 10/b dated 5 October 1911. The opening of this directive on collecting the salaries, appointment dates, titles, and responsibilities of all prison employees states that the General Administration for Prisons had been recently formed. The date the document was issued is 5 October 1911 or Hicri 12 Şeval 1329, this means that this office was opened sometime in the early fall 1911, most likely in September.

<sup>46</sup> BOA, DHMBHPSM 8/3 documents 10/b, 11/1, and 11/2.

employment statistical forms to the Ottoman Prison Administration.<sup>47</sup> Unlike in subsequent years, however, there was no compilation of these statistics into a master list summarizing all of the empire's prison employees.<sup>48</sup>

The employee statistics not only reveal very detailed information regarding each prison employee's name, position, salary, and date of hire, they also demonstrate that there were discrepancies in pay between prison employees in smaller administrative districts and provincial centers, between male and female employees, and between employees who worked in prisons/penitentiaries (*hapishaneler*) and houses of detention/jails (*tevkifhaneler*). It also appears that prison salaries had not yet been standardized.<sup>49</sup> For example, female prison guards were paid a third less than their male counterparts. Male guards received a monthly salary of 150 *kuruş* as opposed to female

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<sup>47</sup> For the completed employment statistical forms see Adana: BOA, DHMBHPSM 2/108; Ankara: BOA, DHMBHPSM 3/30; Aydın: BOA, DHMBHPSM 3/28; Basra: BOA, DHMBHPSM 3/16; Bitlis: BOA, DHMBHPSM 5/25; Canik: BOA, DHMBHPSM 5/18; Cezair-i Bahr-i Sefid: BOA, DHMBHPSM 4/16; Diyarbakır: BOA, DHMBHPSM 3/8; Edirne: BOA, DHMBHPSM 7/57; Halep: BOA, DHMBHPSM 8/11; Hüdavendigar: BOA, DHMBHPSM 4/3; İstanbul: BOA, DHMBHPSM 3/20 and 4/16; İşkodra: BOA, DHMBHPSM 2/112; İzmit: BOA, DHMBHPSM 3/18; Kaseri: BOA, DHMBHPSM 3/15; Kosova: BOA, DHMBHPSM 3/23; Mamüretülaziz: BOA, DHMBHPSM 3/34, 5/28, and DHMBHPS 86/29; Manastır: BOA, DHMBHPSM 2/114; Mosul: BOA, DHMBHPSM 5/13; Selanik: BOA, DHMBHPSM 2/89 and 3/11; Trabzon: BOA, DHMBHPSM 7/106; Urfa: BOA, DHMBHPSM 3/4; Van: BOA, DHMBHPSM 5/29; Yemen: BOA, DHMBHPS 6/3.

<sup>48</sup> For 1913 and 1917's master list summarizing the empire's prison employee statistics see BOA, DHMBHPS 154/14 and DHMBHPS 143/93.

<sup>49</sup> See the completed employment statistical forms for the 1912 survey from Adana: BOA, DHMBHPSM 2/108; Ankara: BOA, DHMBHPSM 3/30; Aydın: BOA, DHMBHPSM 3/28; Basra: BOA, DHMBHPSM 3/16; Bitlis: BOA, DHMBHPSM 5/25; Canik: BOA, DHMBHPSM 5/18; Cezair-i Bahr-i Sefid: BOA, DHMBHPSM 4/16; Diyarbakır: BOA, DHMBHPSM 3/8; Edirne: BOA, DHMBHPSM 7/57; Halep: BOA, DHMBHPSM 8/11; Hüdavendigar: BOA, DHMBHPSM 4/3; İstanbul: BOA, DHMBHPSM 3/20 and 4/16; İşkodra: BOA, DHMBHPSM 2/112; İzmit: BOA, DHMBHPSM 3/18; Kaseri: BOA, DHMBHPSM 3/15; Kosova: BOA, DHMBHPSM 3/23; Mamüretülaziz: BOA, DHMBHPSM 3/34, 5/28, and DHMBHPS 86/29; Manastır: BOA, DHMBHPSM 2/114; Mosul: BOA, DHMBHPSM 5/13; Selanik: BOA, DHMBHPSM 2/89 and 3/11; Trabzon: BOA, DHMBHPSM 7/106; Urfa: BOA, DHMBHPSM 3/4; Van: BOA, DHMBHPSM 5/29; Yemen: BOA, DHMBHPS 6/3.

guards who only received 100 *kuruş* per month.<sup>50</sup> Male guards who worked in some of the provincial capitals made an additional fifty *kuruş* per month. In general, prison employees who worked in the central prisons in the provincial and major administrative districts (*liva* or *sancak*) received higher wages than their country cousins from the director and the physician down to the prison guards.<sup>51</sup>

On 4 January 1912, exactly a year prior to the Sinop prisoner abuse scandal, the Ottoman Prison Administration issued a directive entitled “Concerning the Selection and Appointment of Prison Officials and Employees” (*Hapishaneler Memurin ve Mustahdeminin İntihab ve Ta’yini Hakkında*). This directive overhauled the criteria, qualifications, and selection process for prison officials and employees and expanded the 1880 prison regulation concerning prison employee qualifications and duties.<sup>52</sup> The

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<sup>50</sup> According to F.D.E., *Système des Mesures, Poids et Monnaies de l’Empire Ottoman et des principaux États* (Constantinople : n.p., 1910), pp. 23-29, the basic unit of Ottoman coinage was the piastre or *kuruş*. The gold lira (livre) = 100 piastres (*kuruş*); the silver medjidié = 20 piastres; and 1 *kuruş*/piastre = 0.22 francs. This source noted that legally the medjidié = 19 piastres and 1 piastre = 38 para, but, for convenience sake, the convention was: 1 medjidié = 20 piastres (*kuruş*); a double piastre (ikilik) = 80 para; and 1 piastre = 40 para. The above is quoted directly from endnote no. 20 from Palmira Brummett, “Dogs, Women, Cholera, and Other Menaces in the Streets: Cartoon Satire in the Ottoman Revolutionary Press, 1908-11,” *IJMES* 27 (1995), pp. 433-460.

<sup>51</sup> For a comprehensive comparison of the different salaries for every prison employee in the Ottoman Empire in 1912 see BOA, DHMBHPSM 2/108, 3/30, 3/28, 3/16, 5/25, 5/18, 4/16, 3/8, 7/57, 8/11, 4/3, 3/20, 4/16, 2/112, 3/18, 3/15, 3/23, 3/34, 5/28, 2/114, 5/13, 2/89, 3/11, 7/106, 3/4, 5/29, and DHMBHPS 86/29 and 6/3. Generally speaking, in Provincial capitals, prison (*hapishane*) employees received the following monthly salaries: director (*müdür*) 1,000 *kuruş*, chief clerk (*katip*) 500 *kuruş*, physician (*tabib*) 250 *kuruş*, chief guard (*ser gardiyan*) 400 *kuruş*, male guard (*gardiyan*) 200 *kuruş*, female guard (*nisa gardiyan*) 150 *kuruş*, and various types of prison workers and servants, such as hospital attendants and janitors (*hademe*) 150 *kuruş*. Compare these salaries with employees who worked in jails (*tevkifhaneleri*) who made significantly less than their prison counterparts, except at the lowest levels. They were paid according to the following scale: director (*tevkifhane memuru*) 350 *kuruş*, clerk (*katip*) 300 *kuruş*, chief guard (*ser gardiyan*) 300 *kuruş*, male guard (*gardiyan*) 200 *kuruş*, female guard (*nisa gardiyan*) 150 *kuruş*, and various servants (*hademei*) 150 *kuruş*. For these statistics see BOA, DHMBHPSM 7/57, doc. 35.

<sup>52</sup> BOA, DHMBHPSM 8/3 documents 19 and 23/a.

directive was also unambiguous concerning the source, goals, and justification of the newly announced standards.

The directive began by extolling the virtues, efficiency, and discipline of European prison officials and employees. According to the directive, European prison cadre paid careful attention to the social and spiritual welfare of their prisoners and preformed their duties with such exactitude, diligence, order, and discipline that they were able to transform the “vile or wicked” prisoner into an individual who possessed “moral character” by the end of his/her incarceration.<sup>53</sup> The directive also indicated that the Ottoman Prison Administration shared the same goals as other European countries regarding prison conditions and prisoner rehabilitation. It clearly linked the employee’s qualifications and attributes with the effective implementation of penal policy. The caliber of Ottoman prison cadre needed to match that of their European counterparts. If Ottoman prison guards did not possess the necessary qualifications or were found negligent in their duties, they would be discharged from service without a pension or any monetary compensation.<sup>54</sup>

The directive clearly delineated the new selection process for prison employees and the necessary qualities, characteristics, skills, and abilities the ideal prison guard would possess. In addition to emulating the ideal European prison guard, the properly qualified Ottoman guard needed to possess the ability to read and write Ottoman Turkish, have good oral communication skills, and demonstrate an adequate knowledge of

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid, see also BOA, DHMBHPSM 17/35 doc. 12/a & b which were issued over a year later in 1913.



criminal law as assessed by an exam. Guards must also possess the attributes of order, discipline, virtue, and good moral character. They must be ethical people and have job related experience. According to the directive, the most suitable and ideal candidates were former military and gendarme officers. Finally, the directive concludes by claiming that prison cadre possessing these stipulated qualities would act as “the foundation for the implementation of general Ottoman prison reform.”<sup>55</sup>

This directive explicates the Ottoman Prison Administration’s attitudes towards prison reform and the role the prison cadre were to play within it. First, European prisons were seen as ideal examples of proper prison administration, discipline, and order. This in turn enabled them to rehabilitate successfully their prisoners.<sup>56</sup> This is another case of the CUP legitimizing its reforms based on a European model of ‘civilized’ behavior and rational, progressive, and scientific methods. It also demonstrates that one of the primary goals of CUP prison reform was to bring discipline, progress, and order to Ottoman prisons and facilitate the “rehabilitation of the criminal’s soul.”<sup>57</sup> This would in turn make former prisoners productive members of society upon their release, because they would now possess good ‘moral character.’<sup>58</sup>

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<sup>55</sup> Ibid. This directive was subsequently reissued in 1913 with the same general stipulations and guidelines. See BOA, DHMBHPS 8/13.

<sup>56</sup> Of course research on nineteenth and early twentieth-century European prisons have proven otherwise. For example, see Patricia O’Brien, *The Promise of Punishment: Prisons in Nineteenth-Century France* (Princeton, 1982), chapter six, pp. 190-225.

<sup>57</sup> See BOA, DHMBHPSM 8/3 documents 10/a, 25, and 26 regarding the importance the prison administration placed on the rehabilitation of prisoners.

<sup>58</sup> The Ottoman phrase found in the directive concerning the selection of prison employees (BOA, DHMBHPSM 8/3 doc. 19 is “...ifayi vasıfa eden müstahdeminin mesa’i cediyesi semeresile hapishaneyeye

This directive also reveals the connections the CUP made between prisons and the military in terms of committee members' shared assumptions and practicality. Comte's Positivism was at the core of CUP ideology and the centralization of power within its hands was its chief aim. According to Comte, societies evolved through religious, philosophical, and finally scientific stages. Indeed, Comte argued that society should be guided by an elite class of technocrats, known as *savant*, to ensure that society was reformed according to the scientific principles upon which a modern, civilized, rational society should be based.<sup>59</sup> The Positivist members of the Committee of Union and Progress identified themselves as the *savant* of the Ottoman Empire. Their self-identification was based on the fact that most of the CUP inner circle consisted of low-level bureaucrats and junior military officers educated according to European standards in the military and professional academies established by Sultan Abdülhamid II. Achieving a centralized Ottoman administration and bureaucracy was their chief goal and initiative. Because they were not from the Ottoman notable classes and could not claim power based on that criteria, they worked to establish a political regime for the first time in the Ottoman Empire, which could legitimate their rule.

The importance of the military to CUP reform initiatives is not surprising. Many of the CUP's membership consisted of military officers. The 1908 Young Turk Revolution was also planned, organized, and led by CUP military officers stationed in

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*dahul eden bir şahs-ı şerir bile hitam-ı müddet-ı mahkumiyetinde sahib ahlak ve sıfat olduğu halde huruç eylemektedir."*

<sup>59</sup> Şükrü Hanioglu, *The Young Turks in Opposition* (New York: 1995) and *Preparation for a Revolution: The Young Turks, 1902-1908* (New York: 2001). Also see James Gelvin, *The Modern Middle East, A History* (Oxford: 2005), pp. 129-30.

Macedonia.<sup>60</sup> This connection between the military and imperial reform has a long tradition in the Ottoman Empire. Most reforms associated with defensive modernization carried out during the late eighteenth and nineteenth centuries originated in the Ottoman military establishment. For these reasons it is significant that the CUP would want military officers to run its prisons. Former military personnel were ideal prison employees as a result of their training, discipline, and experience in a 'total institution' similar to the prison. Since the inception of the modern conscript army, it has been the military's responsibility to take untrained peasants and workers and turn them into disciplined soldiers. Who better to train, survey, discipline, and 'rehabilitate' society's miscreants than former military officers?<sup>61</sup>

Military and gendarme officers trained according to European standards were the prison guards of choice. The CUP obviously wanted these individuals to be the leaders and foundation for prison reform, but they should also be viewed as the harbingers of reform for the entire Ottoman Empire. The prison was, in fact, a CUP laboratory of

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<sup>60</sup> For a laborious, but useful study of the relationship between the military and Ottoman/Turkish society and its development see M. Naim Turfan's *Rise of the Young Turks: Politics, the Military and Ottoman Collapse* (London: I.B. Tauris, 2000), 490 p.

<sup>61</sup> It must be noted here that the CUP did not necessarily want the *Alaylı* military officers to run the prisoners or be prison guards. The CUP blamed these individuals for many of the inefficiencies and ineptness of the Ottoman military. An *Alaylı* officer was one who rose up in the ranks from enlisted personnel to that of an officer and was not a graduate of or a recipient of a modern military education so crucial to the CUP's vision of a modern military force. These officers' training and discipline were substandard and they were unprepared to handle modern weaponry and military tactics. Their promotion from the ranks of enlisted soldier was supposedly based upon loyalty to the sultan and not due to merit, training, or ability. Subsequently the CUP purged a vast number of these military officers from its ranks. Turfan indicates that out of a serving Army officer corps of 26,310 in December 1908 only 16,121 remained by January 1911. As a result of several purges and enacted laws over ten thousand officers *Alaylı* officers were expunged from the Ottoman Army. See Turfan chapter three, particularly pages 155-165 and chapter three endnote 115.

modernity for nation-state construction. As discussed at length in chapter two, the Committee of Union and Progress utilized prisons as laboratories for nation-state construction in order to bring progress, reason, and civilization to the Ottoman Empire and to “raise its population to the level of a scientific society.” It was within the walls of Ottoman prisons that the big questions of modernity were worked out, such as administrative reform and centralization, the role of punishment in the rehabilitation of prisoners, economic reform and industrialization, issues of gender and childhood, the implementation of modern concepts of time and space, nationalist identity, social control and discipline, and the role of the state in caring for its population in terms of public health and hygiene. In many cases these reforms were first tested within the prison system and then subsequently implemented empire wide. The key to the implementation of these reforms within the prison and then on an imperial level was the professionalization of the prison cadre. They were the elite, Western educated, leaders that Comte deemed *savant* who would spearhead Ottoman reform. They were the advanced guard of administrative reform that would purge the Ottoman bureaucracy of Sultan Abdülhamid II’s nepotistic, corrupt, and sycophantic cronies, thereby introducing professional advancement based on merit and efficiency.

There were over a thousand prisons and houses of detention within the Ottoman Empire which the creation of the Ottoman Prison Administration in 1911 centralized under a single authority. Even if the directive stipulating the new qualifications for prison cadre only required the use of military and gendarme personnel at high security or *umumi* prisons, this would still entail a large number of guards with military experience.

*Hapishaneler Umumiyesi* or General Prisons were located at the district (*sanjak*) and provincial (*vilayet*) levels. Also according to a documented exchange between the Istanbul “general prison” and the Ottoman Prison Administration dated January 10<sup>th</sup> and 15<sup>th</sup>, 1912 (just six days after the directive regarding prison cadre qualification was first issued) the ratio of guards to prisoners was supposed to follow the European standard of roughly 1:7 or 15 guards for every 100 prisoners.<sup>62</sup> This ratio appears to have been upheld within Ottoman prisons according to the monthly reports and statistical campaigns collecting prison employee data undertaken in 1915 and 1917.<sup>63</sup> It also appears that a sizable number of prison guards were actually military personnel as demonstrated by the large number of petitions sent to the Directorate of Prisons by guards and the issued directives regulating their leaves of absence and pay when activated for military duty during the Balkan Wars and World War I.<sup>64</sup>

Since much of the top leadership of the Committee of Union and Progress was trained in military academies and/or were former military officers, they wanted to use the best of their kind (military officers) as the leaders of their penal reform program. And

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<sup>62</sup> Regarding the exchange between Istanbul’s *Hapishane Umumiyesi* and the Directorate of Prisons in January 1912, see BOA, DHMBHPS 85/23 doc. 1 and 2.

<sup>63</sup> For 1914-15 prison employee statistics broken down by province and prison within each province, which include their positions, number of each type of employee, and salaries see BOA, DHMBHPS 154/14. For the number of prison employees broken down by position, province, and prison for 1917 see BOA, DHMBHPS 143/93.

<sup>64</sup> Even Dr. Paul Pollitz’s personal assistant and translator, Nizar Bey, was called up for military duty during World War I. The Inspector General was successful in preventing his assistant from being activated for military duty (BOA, DHMBHPS 80/22). Many prison employees were reserve military officers who were required to serve during the war. See BOA, DHMBHPS 74/42, 74/44, 78/25, 91/1, 91/28, 91/32, 91/47, 93/20, 93/31, 93/34, 151/20, 151/34, 153/57, 154/60, 156/69, 157/49, BOA, DHMBHPSM 9/98, 12/54, 13/21, 18/49, 18/51, 28/53, and 46/110.

since the prison was a laboratory for imperial reform, this further explains why the CUP would put its 'best and brightest' in control of Ottoman prisons. By disciplining the disciplinarians, the CUP inserted the cream of the crop into the center of their imperial reform program. The former military officers were the Ottoman harbingers of modernity. They were the vital, front-line players who would bring order, discipline, progress, and reason not only to prisons, but to the entire empire. They were the key to imperial transformation, administrative centralization, and prisoner rehabilitation.

## Conclusion

In 1908 the Ottoman Constitution was reinstated and parliamentary elections were held.<sup>65</sup> During an opening session of the Ottoman Parliament one of its deputies made a poignant statement characterizing Sultan Abdülhamid II's method of rule and laying out what style of rule the new constitutional government should assume. He stated:

There used to be one local tuff or strongman from among the notables in every district. When some major incident occurred, these strongmen were promised high positions of power in return for their ability and willingness to control those under their authority from carrying out acts of aggression and wrongdoing....We [the members of the new government] must announce to the people [Ottoman populace] that this era of appeasement is over. The government should manifest its rule [over the people] with all of its might, courage, and endurance.<sup>66</sup>

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<sup>65</sup> For a thorough discussion of the 1908 Ottoman Parliamentary elections see Kansu, *The Revolution of 1908 in Turkey*, pp. 193-242 and Hasan Kayalı, "Elections and the Electoral Process in the Ottoman Empire, 1876-1919" *IJMES*, 27/3 (Aug., 1995), pp. 265-86.

<sup>66</sup> MMZC 1/1 1: 446.

In other words, the era of ‘the politics of notables’ and the continuation of imperial rule through local intermediaries was declared over by Committee of Union and Progress and the Young Turk Revolution.<sup>67</sup> No longer would the Ottoman administration rule indirectly, but now its main goal was to penetrate into the very lives of the empire’s population in such a way as to centralize, rationalize, professionalize, and standardize governmental authority and rule within the totality of Ottoman territory.

This new style of rule was further elaborated in a parliamentary speech given by the Ottoman Prime Minister (*sadrazam*) in 1910.<sup>68</sup> He stated that:

A constitutional government cannot govern according to the methods of an authoritarian regime [i.e. Abdülhamid’s *ancien régime*]. A constitutional government cannot accept or allow one law to be valid in one part of the country and not in another, or that soldiers are recruited from one portion of the population and not from another, or that a portion of the population would pay certain taxes while another portion is exempt.<sup>69</sup>

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<sup>67</sup> The concept of the ‘politics of notables’ was developed by Albert Hourani in his article “Ottoman Reform and the Politics of Notables,” first published in the early 1960s. While widely used and applied to all eras of Middle Eastern history after the development of Islam, it is much more applicable to the early-modern period. Hourani argues that the central state utilized intermediaries (local notables) to rule provincial/local areas, thus allowing greater amounts of autonomy by local rulers while still acknowledging the central state’s suzerainty. See Albert Hourani, “Ottoman Reform and the Politics of Notables,” in *The Modern Middle East*, ed. Albert Hourani, et al, pp. 83-109. For a critique of the impact and viability of Hourani’s concept see James Gelvin, “The ‘Politics of Notables’ Forty Years After” in *Middle East Studies Association Bulletin*, 40/1 (June 2006), pp. 19-30.

<sup>68</sup> It is not completely clear who the Prime Minister was at the time this speech was given, but it was either Hüseyin Hilmi Pasha or Ibrahim Hakkı Pasha. Both served as Prime Minister in 1910 and both were friendly to the CUP, if not members. For a listing of all Ottoman Prime Ministers and their dates of appointment see Sinan Kuneralp, *Son Dönem Osmanlı Erkan ve Ricali (1839-1922) Prosografik Rehber* (Istanbul: Isis, 1999), p. 1. For short biographies of Hüseyin Hilmi Pasha and Ibrahim Hakkı Pasha see Feroz Ahmad, *The Young Turks*, pp. 170-171 and 172.

<sup>69</sup> MMZC 1/3 1: 275.

Direct rule and equal and universal application of the law cannot be fully adopted or implemented by modern governments unless they create and/or gain a monopoly over the use of violence within their borders. The quintessential institutions for controlling a state's population and for maintaining its internal power are penal institutions, including both the police and prisons.

As this chapter has demonstrated, the CUP and the new constitutional regime recognized the need, attempted, and succeeded in creating a centralized, rational, systematic, and professional prison system. New regulations were passed; old ones were implemented on an unprecedented level; new regimens were developed and enacted; new prisons were built according to the latest designs for improving security, surveillance, order, sanitation, and discipline; new efforts were taken to 'rehabilitate' both the economy and the incarcerated through prison labor; and most importantly, the professionalization of the prison cadre was instituted.

CUP actions within the prison offer important insights into Ottoman society, politics, and culture of the Second Constitutional Period. The efforts, time and energy, which the CUP put into establishing and reforming Ottoman penal institutions help to validate the argument that prisons acted as 'laboratories of modernity' for the CUP. The emphasis and importance placed on professionalizing the Ottoman prison cadre by utilizing former army and gendarme officers as prison guards and administrators suggests a strong link between the core members of the CUP themselves, as army officers, and the importance they placed on the reform of Ottoman penal institutions as a central aspect of greater imperial reform.



This assertion is further corroborated by the fact that prisons were not the only penal institutions where military officers were the key to its centralization and professionalization. As Ferdan Ergut's works demonstrate, the police were also key aspects of reform and professionalization that military personnel were supposed to spearhead. In fact, reform of the police forces, their actual creation, centralization, and administration directly paralleled those of the Ottoman prison system.<sup>70</sup> There are few examples that more clearly indicate a state's attempt to assume more control over and responsibility for its population and the preservation of its own power than the creation of centralized, modern, and professional penal institutions.

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<sup>70</sup> Ergut, Ferdan, "Policing the Poor in the Late Ottoman Empire" in *Middle Eastern Studies*, vol. 38 (2002), pp. 149-64; "The State and Civil Rights in the Late Ottoman Empire" in *Journal of Mediterranean Studies*, 13 (2003), pp. 53-74; "State and Social Control: Police in the late Ottoman Empire and the early Republican Turkey, 1839-1939," Thesis-Ph.D (New School of Social Research, 1999); and *Modern Devlet ve Polis: Osmanlı'dan Cumhuriyet'e Toplumsal Denetimin Diyalektiği* (İstanbul: İltişim, 2004).

## Chapter Six

### Children in Ottoman Prisons: Redefining Childhood during the Second Constitutional Period

According to the results of the 1912 Ottoman Prison Survey, the prison in the administrative sub-district (*kaza*) of Beni Saab in the Nablus administrative district (*sancak*) of the Beirut province (*vilayet*) contained 447 prisoners consisting of two females and 445 males. Three hundred seventy-three prisoners had been convicted of less serious offenses (*günha*) and were serving their sentences. The other seventy-four individuals were awaiting interrogation and trial. Among the 373 sentenced prisoners (*mahkumlar*), three males were incarcerated for deviant sexual behavior (*fi'il-i şeni*).<sup>1</sup> This crime in modern Turkish means almost exclusively sodomy, but in late Ottoman times it also included any action considered to be 'deviant' sexual behavior, i.e. not allowed under traditional or Islamic law, including prostitution.<sup>2</sup> It also explicitly implies consensual participation by all involved. Violent, deviant sexual behavior (*cebren fi'il-i şeni*) had its own category in the prison questionnaire and was considered a serious offense (*cinayet*) carrying with it a more severe punishment.<sup>3</sup>

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<sup>1</sup> See BOA, DHMBHPSM 22/43 doc. 12.

<sup>2</sup> See Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (Cambridge: Cambridge University Press, 2005), pp. 1-102.

In the case of these three male prisoners incarcerated for ‘deviant sexual behavior’ or sodomy at the Beni Saab prison, all were sentenced to a similar punishment (three-six months incarceration) and it appears that they all served their sentences simultaneously. It is very likely, therefore, that they committed their crimes together based on three pieces of information gleaned from the prison survey: the prisoners’ occupations, their *millet* identity, and their ages. All three of the prisoners convicted of ‘deviant sexual behavior’ were artisans (*esnaf*) and Muslim. One of the convicted prisoners was between the ages of twenty and thirty years old and the other two were *under* the age of fourteen.<sup>4</sup> It is not, therefore, unreasonable to speculate that the two children were apprentices to the adult prisoner. The two ‘children,’ by contemporary standards and according to Article 40 of the Imperial Ottoman Penal Code (IOPC), were incarcerated with the man with whom they most likely perpetrated the crime. They were all of the same religion, social class, occupation, and received the same punishment and now for the next three to six months they would be incarcerated together in a dormitory style prison where the adult would have full access to both minors.

According to the best of circumstances at this time in Ottoman prisons, prisoners convicted of ‘minor or lesser crimes’ (*günha veya kabahat*) were separated from

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<sup>3</sup> See Sir James Redhouse’s eighteen edition of his Turkish/Ottoman Turkish and English dictionary. On p. 373 *fi’il-i şeni*’ is defined as “indecent assault” and *şeni*’ is defined on p. 1056 as “bad, infamous, abominable; vile, immoral.” I do not agree with this definition of *fi’il-i şeni*’ as “indecent assault” because *fi’il* literally means ‘action’ or ‘act’ and the term ‘assault’ is not a part of its meaning whatsoever. Also I do not agree with Redhouse’s definition, because under the more serious crimes (*cinayetler*) listed in the Ottoman Prison Surveys *fi’il-i şeni*’ is modified by the word *cebren* which means “by force, under constraint, compulsorily” (see Redhouse, p. 218) and implies the word ‘assault’ in this case. Therefore, *cebren fi’il-i şeni*’ more accurately means “indecent assault.”

<sup>4</sup> BOA, DHMBHPSM 22/43, doc. 12.

perpetrators of 'serious offenses' (*cinayet*), the convicted were separated from the accused, and males were separated from female prisoners. Juvenile inmates, however, were not separated from adults. In the case of Beni Saab, there were no 'serious' offenders (*cinayet*) incarcerated in this administrative sub-district. The less serious offenders found in the Beni Saab prison, however, would not have been organized and separated according to their particular crimes. This survey was taken prior to the sweeping prison reforms of April 1912.<sup>5</sup> Prisoners were allowed to mill around together during the day, generally with very little supervision, and at night they all slept together in open wards similar in nature to that of a dormitory or hostel. Prisoners were not separated according to differences in age, therefore, all prisoners, whether they were considered children or not by contemporary standards, were incarcerated together, slept together, and had complete access to each other at all times. In other words, after these boys were 'caught,' tried, and convicted of sodomy, they were incarcerated for three to six months in circumstances which allowed the other 371 adult male prisoners, including the person with whom they committed their crime, complete access to them.

It does not take a vivid imagination to picture what treatment these boys might have experienced. Circumstances similar to those at Beni Saab helped motivate the CUP to reform Ottoman prison conditions and laws regarding children convicted of criminal offenses. In fact, numerous reforms to the Ottoman criminal justice system and prisons regarding the status and treatment of children were carried out by the CUP led Ottoman administration. These reforms included changing the definition of a child, new laws

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<sup>5</sup> For a discussion regarding these reforms see chapter two.

establishing and clarifying the age of criminal culpability, centralizing authority in the hands of the state concerning the criminal legal proceedings associated with minors, abrogating the authority of Islamic law and courts regarding all criminal cases, modifying punishments for children, creating a graduated system of punishment for individuals between the ages of fourteen and nineteen, separating children from adult criminals, and for the first time in Ottoman history—establishing ‘reformatories’ (*islahhaneler*) for delinquent children. The interest in and actions taken by the CUP regarding children in prisons provide important insights into Ottoman views concerning the nature and definition of childhood during the Second Constitutional Period. It was during this period, that long held views of what a child or childhood is and its purpose began to change and conform to some Western standards, particularly in terms of the state’s responsibility to protect and care for children. Children became associated with the future prosperity, pride, and protection of the Ottoman ‘nation.’ The health and welfare of children and their legal status moved from the private sphere of the family to that of the public sphere as determined and controlled by the state. The state was now the chief powerbroker at least in large urban areas regarding a child’s legal status.

## **Children and Childhood in the Middle East**

There is no universal definition of childhood in any region of the world. Class differences, socio-economic status, level of education, religion, cultural norms and mores

all exert and influence a society's opinion of the purpose and definition of childhood and adolescence. The Middle East is no different. The vast number of different religious, linguistic, ethnic, and socio-economic communities in this region makes it particularly difficult to generalize a commonly held notion of childhood. There are, however, some ideal commonalities that help to illustrate what childhood was in the Middle East prior to the sweeping changes brought about by the onset of modernity, particularly among the majority Muslim population.

According to Elizabeth Warnock Fernea, the "cultural ideal" of childhood in the Middle East prior to the onset of modernity consisted of several elements:

the primacy of the group over its individual members; the importance of children, especially sons, to continue and maintain the group; the values of honor, morality, religiosity, generosity, hospitality, respect for parents (especially the father) and responsibility for their care in old age; strong masculine and feminine identity and the primacy of male over female in terms of authority; the division of labor by sex and age; and the idea of *adab* [discipline] to develop a child who was *mu'addab(a)* [i.e. polite and disciplined], who would become an adult who was honorable and conformed to the norms of the group. The group was hierarchical, with adult males at the top. Religious ideology reinforced this ideal. This cultural construct was ideologically based on traditional idealism and religious dogma but also on recognition of the pragmatic fit of this set of expectations and ideals to the economic, political, and social Middle East. The social system it reflects was not based on equality and was not always just, but it fulfilled the needs of the people within the region for many centuries. The family unit remained the basic unit of support and control during the centuries that the Middle East was a loose confederation of large and small groups—families, clans, tribes, religious and ethnic communities—within territories and empires. This began to change at the end of the eighteenth century, with the invasion of the area by western European colonial powers followed by independence, and the development of modern nation-states.<sup>6</sup>

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<sup>6</sup> See Elizabeth Warnock Fernea, ed., *Children in the Muslim Middle East* (Austin, TX: University of Texas Press, 1995), p. 11. For an excellent overview of the development of the notion and definition of childhood in the Middle East, see the above mentioned edited volume and *Remembering Childhood in the Middle East: Memoirs from a Century of Change* (Austin, TX: University of Texas Press, 2002) collected and edited by the same abovementioned scholar. See also Avner Gil'adi, *Children of Islam: Concepts of Childhood in Medieval Muslim Society* (New York: St. Martin's Press, 1992); Halim Barakat, "The Arab Family and the Challenge of Social Transformation," and Safia K. Mohsen, "New Images, Old Reflections: Working Middle-Class Women in Egypt," in Elizabeth Warnock Fernea, ed., *Women and the Family in the*

This 'ideal' view of children and childhood in the pre- and early modern Middle East, closely parallels that of medieval Europe. According to Ariès, in medieval Europe childhood was a fairly short period which ended "as soon as the child could live without the constant solicitude of his mother, his nanny or his cradle-rocker, he belonged to adult society."<sup>7</sup> Of course historical, cultural, and social specificities augment this 'ideal' view depending on the circumstances. This 'ideal' view, however, is useful for analyzing the changes that occurred in the Ottoman Empire over the nineteenth and twentieth centuries, particularly during the Second Constitutional Period, regarding the state's newly assumed role regarding child welfare.

Present day assumptions and perceptions regarding the characteristics of children as being innocent, malleable, dependent, and vulnerable are relatively modern developments. Over the course of the late eighteenth and nineteenth centuries, the current perception of childhood developed as a result of the dislocation and breakdown of the 'traditional' rural family structure. Phenomena, such as the industrial revolution, the development and spread of capitalist market relations, urbanization, and the inception and spread of new instrumentalities of governance resulted in greater centralization of state power and authority concerning the welfare of its population. Child labor, the awful living conditions in tenements, the spread of communicable diseases, the promotion of education, the development of national identities, and the population becoming the state's

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*Middle East: New Voices of Change* (Austin, TX: University of Texas Press, 1985), pp. 27-48, 56-71; see also Andrea Rugh, *The Family in Contemporary Egypt* (Syracuse, NY: Syracuse University Press, 1984).

<sup>7</sup> See P. Ariès, *Centuries of Childhood* (New York: Harmondsworth, 1965) [first published in French: *L'Enfant et la vie familiale sous l'ancien régime* (Paris, 1960)].

object of rule all led to a heightened interest in the welfare of the 'nation's' future, namely children.<sup>8</sup>

One of these very important changes in the treatment and perceptions of children concerned their discipline and punishment in penal institutions.

It was only from the mid-nineteenth century onwards that our modern conceptions of youth and childhood began to restructure the laws and practices of punishment in the ways we now take for granted.<sup>9</sup>

Prior to this point it was common for children guilty of serious crimes and under the age of fourteen in Western Europe and North America (supposedly the most progressive areas in regards to penal practice) to be corporeally punished as an adult and even to be executed.<sup>10</sup> Over the course of the nineteenth century the harsh penal practices carried out against children by state authorities offended contemporary cultural perceptions of childhood, therefore, to

the 'child savers' of the mid-to late nineteenth century in the USA and in Britain, the conviction and imprisonment of young people alongside adults was deeply shocking because it flew in the face of cultural conceptions of childhood which they and others held. It represented a scandal, a blatant contradiction between law and culture which became the object of reforming campaigns and was eventually resolved by legislation

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<sup>8</sup> For greater information on the development of current conceptions of childhood see L. Stone, *The Family, Sex and Marriage in England, 1500-1800* (Harmondsworth, 1979); Aries, *Centuries of Childhood*; and J. Gillis, *Youth and History: Tradition and Change in European Age Relations* (New York, 1974).

<sup>9</sup> Garland, *Punishment and Modern Society*, pp. 201-02.

<sup>10</sup> Regarding the history of juvenile justice, see J. Sutton, *Stubborn Children: Controlling Delinquency in the USA, 1640-1981* (Berkeley, 1989) and A M Platt, *The Child Savers: The Invention of Delinquency* (Chicago, 1977).



setting up special reformatories, juvenile courts, and a more welfare-orientated approach to young offenders.<sup>11</sup>

These cultural perceptions and corresponding penal practices regarding children, similar to so many other 'modern' and Western concepts at the time, spread to the Ottoman Empire during the nineteenth century. These perceptions, however, were not necessarily rapidly or widely accepted. Widespread industrialization and urbanization had not occurred in the Ottoman Empire as they had in Western Europe. Without the massive dislocations and upheaval to the Middle Eastern family, perceptions of childhood and the need for the state to protect these most vulnerable of all its citizens were not as pressing in the nineteenth-century Ottoman Empire as they were in the West. That being said, Ottoman bureaucrats and statesmen were still affected by these changing norms and attempted to adopt some Western policies regarding the punishment and reform of delinquent children, if only superficially.

The clearest manifestation of Western pressure on the Ottoman Empire regarding penal reform for children was the 1880 Regulation for Prisons and Houses of Detention (*Hapishaneler ve Tevkifhaneler Nizamnamesi*) and Ottoman participation in and ratification of the proceedings at the 1890 International Prison Congress in St. Petersburg, Russia. According to Article 90 in the 1880 Regulation for Prisons and Houses of Detention, "incarcerated children under the age of nineteen shall be kept separate from

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<sup>11</sup> Garland, pp. 201-02.

other prisoners both night and day in a place specially designated for them.”<sup>12</sup> The stipulations in this article were never implemented. Similarly, the motions ratified by the Ottomans at the 1890 International Prison Congress were also ignored. These ratified motions included detailed regulations regarding the treatment and punishment of minors.<sup>13</sup> These proposed and superficially adopted reforms were undertaken at the pressure and behest of Western diplomats. Most of these new norms would naturally be perceived as foreign and strange to Ottoman administrators and society, because of the lack of a modern, but developing centralized nation-state in the nineteenth-century Ottoman Empire. It was not until the Second Constitutional Period that these laws were actually implemented and elite perceptions began to change more drastically, at least among the inner circle of the Committee of Union and Progress, regarding the state’s role in protecting and caring for children. One of the first areas in which the CUP affected change concerned the legal status of children.

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<sup>12</sup> See BOA, DHMBHPSM 1/2 doc. 10 and BOA, DHMBHPSM and 31/82. Article 90 states, “Onsekiz yaşını tekmil etmemiş olan çocuklar mevkuf bulundukları hade gece ve gündüz sa’ir mahbusinden bütün bütün ayrı bir mahalde ikamet ettirileceklerdir.”

<sup>13</sup> For the conference proceedings see Fatmagül Demirel, “1890 Petersburg Hapishaneler Kongresi,” *Toplumsal Tarih*, vol. 89 (May, 2001), pp. 11-14.

## ***Shari'a, Childhood, and the Age of Accountability***

The legal status of children regarding criminal culpability and incarceration has been an issue of concern and debate in penal studies since the mid-eighteenth century.<sup>14</sup> In the Ottoman Empire, the issue of incarcerated minors was also a source of debate. No tangible reforms, however, were carried out. Reasons for this lack of action are two fold: the Ottoman government's lack of a centralized administrative apparatus and the power held by Islamic legal institutions to determine the age of accountability for one's actions and to adjudicate in criminal matters. The issues surrounding the concept of childhood in the Ottoman Empire and its change during the Committee of Union and Progress's rule are intimately connected with *shari'a* (Islamic law).

According to Islamic law, childhood ends and accountability for one's actions begins with the onset of puberty. Therefore, prior to the physical manifestation of puberty (i.e. for males—the nocturnal discharge of semen and for females—the commencement of menstruation), a perpetrator of a criminal offense cannot be held accountable for his/her actions as long as the accused has not completed his/her fourteenth year. In other words, prior to the onset of puberty, the offender is “presumed not to be aware of the unlawfulness of their actions and lacks criminal intent.”<sup>15</sup> For minors there is no *mens rea* or ‘guilty mind’ because they are deemed unable to

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<sup>14</sup> John Howard, *The State of Prisons in England and Wales, with an Account of Some Foreign Prisons* (Warrington: 1777) and *An Account of the Principle Lazarettos in Europe and Additional Remarks on the Present State of Prisons in England and Ireland* (Warrington: 1787).

<sup>15</sup> See Peters, *Crime and Punishment in Islamic Law*, p. 20.

comprehend the full implications of their actions. For the various schools of Islamic theological thought, with the exception of Shi'ism, the onset of puberty is given a minimum and maximum commencement date. For females, according to the Hanafi tradition (the official *mezhep* or Islamic school of law for the Ottoman Empire), puberty begins as early as nine, but no later than age fifteen. For males, the Hanafi tradition holds that puberty starts sometime between the ages of twelve and fifteen.<sup>16</sup> These Islamic legal concepts of criminal culpability according to the onset of puberty were adopted by the 1858 IOPC.<sup>17</sup> This means that girls as young as nine years old and boys as young as twelve were tried, convicted, and incarcerated in an Ottoman prison alongside adult inmates.

Article 40 of the original 1858 IOPC reads as follows:

An offender who has not attained the age of puberty is not liable to the punishments prescribed for the offence which he has committed and if he is further not a person possessed of the power of discernment he is given up to his father, mother or relatives by being bound over in strong security. In case no strong security is produced by the father, mother or relatives he is put in prison for a suitable period through the instrumentality of the police for self reformation.

But if such offender who has not attained puberty is *murahiq* [on the verge of puberty, between the ages of nine to fifteen and still does not have the physical signs of puberty] that is if he has committed that offence deliberately by distinguishing and discerning that the result of his action and deed will be an offence, if his offence is of the category of Jinayets [serious crime, i.e. felonies] calling for the punishments of death or perpetual kyurek [permanent incarceration with hard labor] or confinement in a fortress or perpetual exile he is put in prison for a period of from five years to ten years for self reformation; and if it is an offence necessitating one of the punishments of temporary kyurek [incarceration with hard labor] or temporary confinement in a fortress or

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<sup>16</sup> Ibid., pp. 20-21.

<sup>17</sup> See John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code: A Translation from the Turkish Text with Latest Additions and Amendments Together with Annotations and Explanatory Commentaries upon the Text and Containing an Appendix Dealing with the Special Amendments in Force in Cyprus and the Judicial Decisions of the Cyprus Courts* (London: Oxford University Press, 1913), pp. 26-30.

temporary exile he is likewise put in prison for a period equal to from one fourth up to one-third of the period of the punishment called for by his offence; and in both these cases he may be taken under police supervision for from five years to ten years; and if his offence necessitates the punishment of deprivation of civil rights he is similarly imprisoned for reformation for from six months to three years; and if his offence is one necessitating a punishment less severe than the punishments mentioned he is similarly imprisoned for reformation for a definite period not exceeding one-third of such punishment.<sup>18</sup>

Article 40's legal definition regarding the age of accountability was mitigated and clarified for procedural purposes by an Ottoman Ministry of Justice directive circulated on 26 March 1874. This circular stated:

Males and females who have not completed the age of thirteen years shall be regarded as infants whilst offenders who are just over the age of fifteen if their puberty cannot be established shall be deemed to be *murahiqs* with discernment.<sup>19</sup>

However, the original Hanafi interpretation of the age of accountability was reestablished with the creation of the *Mecelle* by Ottoman authorities in 1877.<sup>20</sup> The *Mecelle* was the Ottoman Empire's official civil law code, which consisted of a combination of Hanafi

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<sup>18</sup> This English translation of Article 40 of the 1858 Ottoman Imperial Penal Code is from Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, p. 27. The original Ottoman Turkish text of the 1858 Ottoman Imperial Penal Code is found in the *Düstur*, vol. I, pp. 400-468.

<sup>19</sup> The original text of the circular is found in Nazif Bey, *Kavanin-i Ceza'iyeh Mecmu'ası* [A Collection of Penal Laws] (Constantinople: Garabed's Printing Office, 1902), p. 16. The translation of this circular is quoted directly from John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code*, p. 28.

<sup>20</sup> The *Mecelle* represented the first systematic and imperial attempt to codify and modernize Islamic law (*shari'a*). It was the official civil code for the Ottoman Empire adopted in 1877. It was prepared and written from 1869-1876 by a commission under the direction of Ahmet Cevdet Paşa. The *Mecelle* consists of sixteen volumes containing 1,851 articles. For a useful overview of the *Mecelle* see the *The Oxford Encyclopedia of the Modern Islamic World* edited by John Esposito. Consequently, a comprehensive interpretive study of the formation and content of the *Mecelle* does not exist, although there are some very good English translations. For example, see *The Mejelle*, translated from the Turkish text by C.R. Tyser, D.G. Demetriades, and Ismail Haqqi Efendi (Kuala Lumpur, Malaysia: The Other Press, 2001).

interpretation of *shari'a* and Western civil law. According to the *Mecelle*, the age of puberty and thus the beginning of accountability and adulthood is as follows:

Art. 985. The time of puberty is proved by the emission of seed in dreams and the power to make pregnant, and by the menstrual discharge and power to become pregnant.

Art. 986. The beginning of the time of arrival at puberty is, for males, exactly twelve years of age and, for females exactly nine years, and the latest for both is exactly fifteen years of age. If a male, who has completed twelve, and a female who has completed nine, has not reached a state of puberty, until they reach a state of puberty, they are called "murahiq" and "murahiqah" [literally "on the verge of puberty"].

Art. 987. A person in whom the signs of puberty do not appear, when he has reached the latest time for arrival at puberty [fifteen years old] is considered in law as arrived at the age of puberty.<sup>21</sup>

Therefore, according to the *Mecelle* and Article 40. of the IOPC, everyone who has commenced puberty is considered criminally culpable and punished as an adult, even if s/he is only nine years old. If a child has reached the minimum age of puberty, but has not shown the signs of puberty, s/he is considered 'partially responsible' (*murahiq*) and is still subject to punishment. This punishment, however, is at a reduced level from that of an adult. Additionally, if a person has reached the age of fifteen years old, but has yet to produce evidence of puberty, s/he is regarded criminally culpable and subject to full punishment under the law. It is theoretically possible, therefore, according to Article 40, that children even under the age of nine (girls) and twelve (boys) could be placed in jail alongside adults if there was no relative to whom the child could be "bound in strong security." It is clear from this discussion, that the issue of criminal accountability was very convoluted and open to vast differences of interpretation and opinion.

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<sup>21</sup> See *The Mejelle*, pp. 154-55.

## Adopting a Secular Definition of Childhood

These religiously based legal statutes determining the age of accountability remained in tact in the Ottoman Empire until the Second Constitutional Period. On 4 June 1911, just seven months prior to the commencement of the 1912 Ottoman prison survey and contemporary with the enactment of the first comprehensive prison reforms, the Ottoman Parliament repealed the 1858 Article 40 and replaced it with a new Article 40 which reads as follows:

Those who have not completed the age of thirteen years at the time of committing an offence are deemed to be devoid of the power of discernment and are not responsible for the offence they commit, but are given up to their parents or relative or guardian by judgment of a Junha Court [Court of Less Serious Criminal Offences] and by way of taking recognizance from them, or they are sent to a reformatory [*islahhane*] for training or detention for a period not to extend beyond their age of majority. If opportunity is afforded through negligence in care or supervision to children given up to their parents or relative or guardian by recognizance, to commit an offence before completing the age of fifteen years, a fine of from one Lira to one hundred Liras is taken from those charged with their care.

With regard to those who, at the time of committing an offence, have completed the age of thirteen years but have not finished the age of fifteen years punishment is ordered with regard to them, on account of the offence committed by them, in the following manner:-- If his offence is of the category of Jinayets [serious offences, i.e. felonies] calling for the punishments of death, perpetual kyurek [permanent incarceration with hard labor] or confinement in a fortress, or perpetual exile he is put in prison for self reformation for from five years to ten years; and if it is an offence necessitating the punishments of temporary kyurek [incarceration with hard labor], temporary confinement in a fortress, or temporary exile he is likewise put in prison for self reformation for a period equal to from one-fourth up to one-third of the period of the punishment called for by his offence, and in both these cases he may be taken under police supervision for from five years to seven years; and if his offence necessitates the punishment of deprivation of civil rights he is likewise put in prison for self reformation for from six months to three years. If it necessitates a punishment less severe than the punishments mentioned he is likewise put in prison for self reformation for a definite period not exceeding one-third of the period of that punishment. If it calls for a fine, half of it is deducted.

Those who, at the time of committing an offence, have finished the age of fifteen years but have not completed the age of eighteen years are put in prison for self reformation for from seven years to fifteen years in cases calling for the punishments of death or perpetual kyurek or perpetual confinement in a fortress or perpetual exile; and in cases

calling for the punishments of temporary kyurek or temporary confinement in a fortress or temporary exile they are likewise put in prison for self reformation for from one-half to two-thirds of the period of the original punishment, and in both cases they may be taken under police supervision for from five years to ten years; and if the offence is one necessitating a punishment less severe than the punishments mentioned, punishment of imprisonment is ordered after deducting one-fourth of the original punishment.<sup>22</sup>

A comparison of the original Article 40 of the 1858 IOPC with its successor reveals a number of important changes in the legal status and definition of childhood. In fact, the 4 June 1911 Article 40 represents a fundamental shift in the ‘official’ nature, definition, and view of childhood in the late Ottoman Empire from an Islamic legalistic view to one that is modern and ‘secular,’ particularly concerning the age of accountability, when childhood ends, and the ‘rehabilitation’ of the juvenile offender.

The 1911 revisions to Article 40, establish the age of accountability and the ability to discern between right and wrong at the completion of one’s thirteenth year. No longer is accountability based on the attainment of puberty, but solely on a specific arbitrary age. This represents a closer adherence to the 1810 French Penal Code, which states in Article 66 that those accused under the age of sixteen are not capable of knowing the difference between right and wrong (*sans discernement*). However, it keeps the age when accountability begins near the latest possible date allowed under Islamic law for a person who has not begun puberty to still be considered a child. This demonstrates an interesting example of Ottoman adoption and adaptation of European norms and mores to a specifically Ottoman cultural context.

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<sup>22</sup> Ibid., pp. 29-30.



This change also represents an example of continuity and ideological manifestation. The CUP and the Ottoman Parliament during the Second Constitutional Period were building upon continuous attempts by various Ottoman governments to centralize bureaucratic, administrative, and legal power within the hands of the Ottoman state. This is evident in the progression and development of the legal statutes determining the age of discernment, which progressed from a strictly Islamic legal interpretation as witnessed by the promulgation of the 1858 IOPC and the *Mecelle* to the combination of Islamic legal definitions and arbitrary age designations in 1874 to accountability being determined solely upon an arbitrary age requirement by 1911. In addition to the 1911 version of Article 40 being an example of continuity and change, it is also a manifestation of CUP ideological goals and pragmatic style of rule.

One of the core facets of CUP pragmatism and ideology or “shared set of attitudes” was the creation of a more rational, centralized, efficient, and regularized system of government in all of its multifarious actions and responsibilities.<sup>23</sup> By placing an arbitrary and concrete standard for the age of discernment and accountability, the CUP was abrogating the powers of the decentralized Ottoman Islamic legal establishment, i.e. Islamic courts and judges. It also rationalized the process for determining accountability and removed the ambiguity which existed under the previous legal interpretation. This, in turn, when combined with the other changes to the IOPC discussed in chapter three,

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<sup>23</sup> Rather than a set coherent ideology, Erik J. Zürcher argues that the CUP leadership “shared [a] set of attitudes rather than a common ideological programme.” According to Zürcher, the important shared attitudes consisted of nationalism, positivism, a great if not naïve, faith in the power of education to elevate the people, an implicit belief in the role of the state as the prime force in society, and a powerful belief in progress and change. See Erik J. Zürcher, *Turkey: A Modern History* (London: I.B. Tauris, 2004), p. 132.

further establishes the state as the central power holder over its population, especially in the realm of crime and punishment.

## **Access and Reconfiguration**

Through the appropriation of increased authority at the expense of Islamic legal institutions, the CUP and the Ottoman state gained more access to the private sphere, specifically in terms of the family. One of the quintessential characteristics of the modern era is the attempt by states to penetrate into the lives of the population in order to have greater access to their most important resource. Prior to the modern era and continuing till today, the family is the most recognized portion of the private sphere where individuals, specifically fathers and husbands in patriarchal societies, have the greatest amount of autonomy over their dependents in terms of social behavior, finances, education, living arrangements, and marriage.<sup>24</sup> With the commencement of the early modern period and absolutism, rulers attempted to remove intermediaries in order to gain greater access and control over the resources of their domains. The family was one of those areas, and starting in earnest during the late eighteenth century, the state assumed greater and greater amounts of authority over the family, so much so that traditional patriarchy has been replaced by what some scholars call 'state patriarchy.'<sup>25</sup>

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<sup>24</sup> For a discussion on patriarchy, its origins, and development see Gerda Lerner, *The Creation of Patriarchy* (New York: Oxford University Press, 1986).

The state assumed the role of the traditional patriarch in an attempt to shape and control society on its most fundamental level. This was done through education, concerns for child safety and welfare, promoting women's rights and freedoms, and even on smaller scales, such as issuing marriage licenses and promulgating inheritance laws. The CUP's appropriation of the power to determine the age of accountability demonstrates at least the beginnings of state patriarchy in the Ottoman Empire.

The Ottoman administration's penetration into the lives of its population, particularly the family, is further illustrated by the nature and potency of an important vagrancy law passed by the CUP led Ottoman Parliament in 1909, entitled "The Law on Vagabonds and Suspected Persons" (*Sereri ve Mazanna-ı Su-i Eshas Hakkında Kanun*). This law provided the police (another penal institution extensively reformed by the CUP) with incredible latitude and discretion in controlling what the CUP viewed as the most volatile and threatening segment of the population—single adult unemployed males, who lived alone. Stringent laws were passed restricting and controlling their movements, housing, ability to find work, and leisure activities. These legal measures were justified by the claim that vagrants and vagabonds were immoral, lazy, lecherous individuals who threaten civil order because they did not pursue 'family life.' It was now the state's responsibility to protect the family from these abominations, because it viewed the family as the foundation of national identity and civil society's well-being.<sup>26</sup>

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<sup>25</sup> For a discussion of state or 'public patriarchy' see Mervat F. Hatem, "Economic and Political Liberation in Egypt and the Demise of State Feminism," *International Journal of Middle East Studies*, 24/2 (May, 1992), pp. 231-251.

Another example of CUP attempts to develop a state patriarchy and further intervene into the lives of the populace was the adoption and promotion of Boy Scout organizations throughout the empire during the Second Constitutional Period. Scouting originated in Great Britain and quickly spread to the United States during the first decade of the twentieth century. The first scouting organization established in the Ottoman Empire was “The Turk’s Strength” (*Türk Gücü*) in 1913 with the support of CUP members, such as Ziya Gökalp. It was organized with the purpose of promoting morality and vitality among the empire’s youth, particularly among Muslim Turks.<sup>27</sup>

In May 1914, Enver Pasha, then Minister of War, hired Harold Parfitt, an Englishman and founder of the first Boy Scout troop in Belgium, to establish a new scouting organization (*İzcilik Dernekleri*) in the Ottoman Empire. This was a state sponsored organization connected to the Ministry of War and founded in order to prepare young males for military service. This organization was completely voluntary and its membership comprised of young males between the ages of eleven and seventeen.<sup>28</sup>

Within a month of *İzcilik Dernekleri*’s founding another Scouting organization was established also by Enver Pasha and the Ministry of War. This organization, the

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<sup>26</sup> See Ferdan Ergut, “Policing the Poor in the Late Ottoman Empire” in *Middle Eastern Studies*, vol.38 (2002), 149-64.

<sup>27</sup> For details regarding the formation of this organization see Füsün Üstel, *İmaparatorluktan Ulus Devlete Türk Milliyetçiliği: Türk Ocakları, 1912-1931* (İstanbul: İletişim Yayınları, 1997) and Zafer Toprak, “II. Meşrutiyet Döneminde Paramiliter Gençlik Örgütleri” in *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi* (İstanbul: İletişim Yayınları, 1985), vol. 2, pp. 531-536 and “İttihat ve Terraki’nin Paramiliter Gençlik Örgütleri,” *Boğaziçi Üniversitesi Dergisi Beşeri Bilimler*, vol. VII (1979), pp. 95-113.

<sup>28</sup> See Y. Tolga Cora, “Educating the bodies and the morals for the ‘survival’ of the State’ Some Notes on the Emergence of Boy Scouting in the Ottoman Empire,” Senior Thesis (Boğaziçi Üniversitesi, 2005), pp. 8-13. This was given to me personally by Y. Tolga Cora.

Ottoman Strength Associations (*Osmanlı Güç Dernekleri*), was a compulsory organization in all public schools for young males aged seventeen and above. The *İzcilik Dernekleri* was placed in a subordinate position to the *Osmanlı Güç Dernekleri* and the *Türk Gücü* appears to have been disbanded. The *Osmanlı Güç Dernekleri* was distinctly paramilitary and it was organized, funded, and directed by the Ministry of War. Its purpose was to prepare male youth for military service so that they could protect their 'homeland' (*vatan*). This purpose is clearly illustrated by a Ministry of War declaration concerning the purpose of this organization's establishment.

In this era, for every nation which wants to survive, to defend its homeland (*vatan*), its virtue (*ırz*), and its honor (*namus*) in the face of its enemies, must become a 'nation in arms' (*millet-i müsella*h)...From now on when our homeland is in danger, those who are true men will not loiter in the streets, but will run and take up arms to defend our Ottoman honor and homeland, which has been entrusted to us by God...The Ministry of War is concerned with this vital issue more than anyone else, therefore, it took upon itself this responsibility and founded the Ottoman Strength Associations (*Osmanlı Güç Dernekleri*).<sup>29</sup>

This notion of a 'nation in arms' was further reinforced by the outbreak of World War I and the commencement of 'total war' within the Ottoman Empire. All of the nation's assets and resources had to be mobilized including its children to protect and defend the Ottoman nation. The connection between scouting and the 'nation in arms' concept continued to strengthen and evolve during the war, especially as a result of German military influence.<sup>30</sup> Scouting is a clear example of the state attempting to train,

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<sup>29</sup> "Güç Dernekleri," *Tanin*, 11 Haziran 1330 [24 June 1914], No. 1977, p. 4 and "Güç Dernekleri," *İkdam*, 11 Haziran 1330 [24 June 1914], No. 6229, p. 2. This is a modified translation Mr. Cora's quotation, p. 13.

<sup>30</sup> See Cora, pp. 13-14.

influence, and gain greater access to children, which had traditionally been left to the control and care of families alone.

The combination of the CUP's newly established graduated system of punishments for minors between the ages of fourteen and nineteen and the establishment of scouting organizations to train and prepare boys to defend their homeland could represent the beginnings of the concept of adolescence in the Middle East. It appears that a grey area between childhood and adulthood for the male inhabitants of the empire was created at this time. It was during this critical time (adolescence) that education, training, and experience were to be gained by young males, thus preparing them for adulthood.<sup>31</sup>

At the same time that these new regulations and laws provided the state more access to the private sphere, it also allowed the CUP to reshape and consolidate state control over the public sphere, at least in terms of mitigating the authority of Islamic law in the adjudication of criminal matters. Over the course of the Second Constitutional Period, the CUP did more to whittle away the authority of Islamic legal institutions than any other Ottoman regime. This process of undercutting Islamic law culminated in 1917, when the CUP controlled Ottoman government stripped Islamic courts of all authority to adjudicate in any criminal matters. Islamic courts were now restricted to civil family issues, such as marriage, divorce, child custody, and inheritance. Criminal law was now completely subject to the Ottoman state's secular criminal courts and the IOPC.<sup>32</sup>

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<sup>31</sup> The modern Turkish word for the concept of 'youth' (*gençlik*) may trace its origins to this time period.

<sup>32</sup> Peters, *Crime and Punishment in Islamic Law*, p. 133.

The consolidation of state power over criminal law and its adjudication is a partial fulfillment of the CUP's stated goals in 1910. When addressing the Grand Assembly (Ottoman Parliament), the Ottoman Grand Vizer (*sadrâzam*) declared:

A constitutional government cannot govern according to the methods of an authoritarian regime [i.e. Abdülhamid's *ancien régime*]. A constitutional government cannot accept or allow one law to be valid in one part of the country and not in another, or that soldiers are recruited from one portion of the population and not from another, or that a portion of the population would pay certain taxes while another portion is exempt.<sup>33</sup>

The ambiguity caused by the shifting law of puberty to determine one's age of accountability could not remain unchanged in this new constitutional government and administration. All facets of life, law, and politics had to be regularized and equally applied. This CUP agenda was equal parts pragmatism and idealism.

### **Rehabilitating the Delinquent Child: *Islahhaneler***

Another significant change from the original Article 40 and the 1911 version is the importance given to the 'rehabilitation' of criminals under the age of fourteen, between the ages of fourteen and sixteen, and from sixteen until the end of their eighteenth year. The 1911 version of Article 40 significantly augments the gradation of punishment according to the age stipulations set forth in the original article. Prisoners between the ages of fourteen and nineteen were not considered 'full' adults, and

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<sup>33</sup> MMZC 1/3 1: 275.

therefore, deserved lighter sentences than those of their adult counterparts who committed the same crime. Provisions were written stipulating measures for the betterment, welfare, training, and ‘rehabilitation’ of the accused under the age of fourteen. Most significantly, though, these rehabilitative provisions were to be determined by newly established ‘Junha’ (minor criminal offence) courts. No longer were children under the age of accountability automatically given to their parents or guardians for supervision. Special courts were designated to determine the proper procedure of ‘correction’ and ‘rehabilitation’ for the child. Unlike in the original version of Article 40, children under fourteen years old were to be placed in *islahhaneler* (reformatories) instead of being incarcerated alongside adults in regular prisons.

The history of the *islahhaneler* in the Ottoman Empire is not straightforward. *Islahhaneler* originated during the Tanzimat period (1839-1878) and are attributed to the famous Ottoman bureaucrat and reformer Midhat Pasha during his governorship of the Danube and Niş provinces in the 1860s. *Islahhaneler* were originally established as special training and vocational schools for disadvantaged and at risk children (i.e. orphans and the indigent). These institutions were originally established and soon spread throughout the empire in order to assist in the manufacturing sector of the Ottoman Economy. Separate factories were established for girls and boys and some were employed to make uniforms for the army and to train young artisans after the disbanding of the guilds. Still others were used to develop a new cadre of trained technicians to run the sultan’s factories. These were modern schools and factories which served technical,



economic, and charitable purposes.<sup>34</sup> It is important to point out that at their inception and for the first fifty years of their existence these nineteenth-century *islahhaneler* were not centers of punishment or reform for juvenile delinquents. In fact, there were no provisions made for children convicted of criminal behavior in the Ottoman Empire, except that they be either placed under the strict supervision of their parents or placed in a normal prison alongside adult criminals.

The CUP's prison reform program for children was straightforward and centered on two interrelated aspects. The first was the complete separation of the child from adult criminals and the second was a focus on the child's rehabilitation. The site at which both of these priorities were to be achieved was the *islahhaneler* (reformatories). Unlike its nineteenth-century counterpart, the *islahhaneler* of the Second Constitutional Period became a center devoted to the reformation of delinquent children. As mentioned above, the concept that juvenile criminals should be separated from adult criminals originated from the 1880 prison regulation and the 1890 International Prison Congress, however, the CUP went far beyond this. The Ottoman Prison Administration created centers where juvenile delinquents would be housed, educated, trained, disciplined, watched over, cared for, and reformed by the state. Similar to their nineteenth-century namesakes, the

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<sup>34</sup> For a very brief history of these mid-nineteenth century *islahhaneler* see İmdat Özen, "II. Meşrutiyet'e Kadar Islahhaneler ve Darülaceze," MA Thesis (Ankara : Ankara Üniversitesi, 2001) and the German and Turkish language article by Hans-Jürgen Kornrumpf, "Islahhenler" in Jean-Louis Bacque-Grammont and Paul Dumont (eds.), *Économie et Sociétés Dans L'Empire Ottoman, Fin du XVIII-Début du XX siècle* (Paris: Editions Du Centre National de la Recherche Scientifique, 1983), pp. 149-156.

children would be taught job related skills and provided with modern educations in order to turn them into contributing members of society.<sup>35</sup>

Only one reformatory was built prior to 1916. Its location was in the imperial capital—Istanbul. In 1916, however, a German prison reformer, administrator, and criminal psychiatrist—Dr. Paul Pollitz—was hired by the CUP controlled Ottoman government and assumed the post of “Inspector General of Prisons and Penitentiary Establishments for the Ottoman Empire” (*Inspecteur Général des Prisons et Etablissements Pénitenciers de l’Empire Ottoman*).<sup>36</sup> As discussed in some detail in chapter two, Dr. Pollitz continued, initiated, and oversaw a massive Ottoman prison reform campaign which was unprecedented for any nation engaged in ‘total war.’ Using Article 40 of the IOPC, he pressed for the expanded construction and use of *islahhaneler* (reformatories) throughout the empire and achieved success prior to his dismissal in 1919 after the surrender of the Ottoman Empire and the collapse of the CUP government.<sup>37</sup> In lieu of the lack of reformatories in which to place delinquent children, he simply pardoned them.

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<sup>35</sup> See the CUP Ottoman Prison Administrations “Regulation for Reformatories” (*Islahhaneler Nizamnamesi*), BOA, DHMBHPS 151/83. This regulation consisted of twenty-five articles detailing the purposes, goals, authorities, and responsibilities of these reformatories. It also stipulated the educations and training the children would receive.

<sup>36</sup> For a detailed discussion of Dr. Pollitz’s qualifications see chapter two.

<sup>37</sup> See BOA, DHMBHPS 76/5, 158/37, 78/36, and DHMBHPSM 34/97.

## Countin'em Up and Movin'em Out

Situations similar to those described above at the Beni Saab prison were exactly what the new constitutional regime was attempting to prevent when it reformed Article 40 of the IOPC, created a centralized prison administration, and commenced a sweeping prison reform program in 1911-12. The changes to Article 40 enacted in 1911 were immediately reflected in the 1912 Ottoman Prison Survey questionnaire in order to ascertain the number of children incarcerated within the Ottoman Empire's sprawling prison system. The section of the questionnaire requesting the ages of the prisoners possessed categories directly reflecting the changes to Article 40 and was broken into eight different categories. The first category requested the number of prisoners fourteen years old and under. The second category requested the number of prisoners nineteen years old and under. The other categories proceeded to gather information on the ages of other prisoners by ten year increments beyond age seventy.<sup>38</sup>

The annual Ottoman Prison Survey questionnaires continued to possess this classification of the ages of the prisoners until the very end of the empire. Each year these surveys would collect information on the number of minors incarcerated within Ottoman prisons. Between 1912-17, the number of children under the age of fourteen found in Ottoman prisons dropped significantly. So much so, that by 1917 only a handful

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<sup>38</sup> BOA, DHMBHPSM 8/3, doc. 13.

of such prisoners were still found in Ottoman prisons. This fact is confirmed by a special prison survey taken in 1917.<sup>39</sup>

Unlike the annual Ottoman Prison Survey, in 1917 an empire wide survey was conducted dedicated solely to collecting data on individuals under the age of eighteen incarcerated in Ottoman prisons. The data collected on juvenile inmates went far beyond just numbers, but also included the children's names, ages, date of incarceration, how much of their sentences they had served, how much time they had left to serve, and what crimes the children had committed.<sup>40</sup> The results of this survey were collected, tabulated, and compiled into a master list and used to formulate further reforms for the betterment of child welfare within the empire, including the expanded construction of reformatories.<sup>41</sup> The total number of children under the age of eighteen incarcerated in Ottoman prisons in 1917 was 1,676 out of 21,666 total prisoners. These juvenile delinquents included only forty-nine girls. It is also important to note that only a handful

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<sup>39</sup> For example, see the 1917 prison survey results for Istanbul: BOA, DHMBHPS 158/17, Aydın: BOA, DHMBHPS 158/2, Suriye (Syria): BOA, DHMBHPS 160/69, and Adana: BOA, DHMBHPS 158/66. These surveys list the ages of the inmates under the age of eighteen in their prisons. Only Istanbul and Adana had one child a piece under the age of eighteen.

<sup>40</sup> For the numbers and names of each incarcerated child for most of the provinces and administrative districts within the Ottoman Empire in 1916-17 see Adana: BOA, DHMBHPS 158/66; Ankara: BOA, DHMBHPS 159/2; Aydın: BOA, DHMBHPS 158/2; Beyrut: BOA, DHMBHPS 159/12; Bitlis: BOA, DHMBHPS 159/33; Canik: BOA, DHMBHPS 117/6; Diyarbakır: BOA, DHMBHPS 158/9; Halep: BOA, DHMBHPS 158/68; Hüdavendigâr: BOA, DHMBHPS 159/7; İstanbul: BOA, DHMBHPS 158/17; Kastamonu: BOA, DHMBHPS 158/57; Konya: BOA, DHMBHPS 158/63; Mamûretülazîz: BOA, DHMBHPS 159/4; Mosul: BOA, DHMBHPS 159/10; Sivas: BOA, DHMBHPS 158/69; and Suriye (Syria): BOA, DHMBHPS 160/69.

<sup>41</sup> One of the master lists simply providing the numbers of all prisoners eighteen years old and younger broken down by prison in the entire empire. See BOA, DHMBHPS 143/93. Another alternatively organized master list can be found in BOA, DHMBHPS 159/5.

of these juvenile inmates were under the age of fourteen years old. It appears that CUP efforts to remove children under the age of fourteen were largely successful.<sup>42</sup>

This entire campaign, including the collection of statistics and the subsequent reform program, was headed by Dr. Paul Pollitz. As a professional criminal psychiatrist, prison director, and German prison reformer, Pollitz took a special interest in the plight of juveniles in the Ottoman criminal justice system. Besides increasing juvenile prisoner education, the construction of more reformatories, improving the health, nutrition, and living standards of child inmates, Pollitz also removed large numbers of them from prison by having them pardoned.<sup>43</sup>

Commuting the sentences of these young prisoners was contingent upon the fulfillment of certain stipulations. Those who were pardoned must be younger than eighteen years old, must be serving time for less serious offenses (*günha*), and must be judged to be well behaved. According to the sources, it appears that a substantial

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<sup>42</sup> See BOA, DHMBHPS 143/93, doc. 2. This master list breaks down inmates eighteen years old or younger in Ottoman prisons according to province (*vilayet*) and independent administrative district (*sancak*). The breakdown by province: İstanbul: 90/967, Edirne: 47/604 (2 girls), Adana: 104/1049, Ankara: 103/1385 (21 girls), Aydın: 310/2843 (17 girls), Bitlis: 7/96 (not all districts reported), Beirut (Beirut): 51/1251, Halep: 39/664, Hüdavendigar: 48/849, Diyarbakır: 63/1128, Suriye (Syria): 31/1149, Sivas: 143/1214, Trabzon: 23/183 (not all districts reported), Kastamonu: 55/1255, Konya: 75/985, Ma'muretü'l-aziz: 23/234, and Mosul: 14/505 (not all districts reported). The breakdown by independent administrative district: Urfa: 17/285, İzmit: 24/279, İçil: 13/85, Eskişehir: 22/164, Bolu: 26/502, Teke: 22/215, Canik: 34/289, Cebel-i Lübnan: 18/275, Çatalca: 3/19 (not all districts reported), Zor: 0/102, Kudüs (Jerusalem): 54/643, Karesi: 73/757, Kal'a-i Sultaniye: 23/151, Kayseri: 52/255, Karahisar-ı sahib: 7/302, Menteşe: 28/248, Ma'raş: 8/366 (6 girls), and Niğde: 30/368 (3 girls). Regarding the actual ages of the children incarcerated in Ottoman prisons see footnote forty of this chapter.

<sup>43</sup> Documents related to Pollitz's reform programs are as follows—Reformatories: BOA, DHMBHPS 76/5, 158/37, 78/36, and BOA, DHMBHPSM 34/97; Children of Incarcerated Women: BOA, DHMBHPS 160/82 and 61/20; Children's Health in Prison: BOA, DHMBHPS 158/43; New Regulations for the Punishment of Children: BOA, DHMBHPS 158/49; Regarding Setting up Schools within Prisons for Incarcerated Children: BOA, DHMBHPS 39/20.

proportion of the 1,676 inmates under the age of eighteen in 1917 were pardoned.<sup>44</sup> Part of the rationale for this was the easing of overcrowded conditions in specific prisons. The other part of it was to simply remove those children from prison as soon as possible. In many cases, the 1917 juvenile delinquent survey consisted of counting them up and then moving them out of the prisons provided those under the age of eighteen met the stipulations outlined above. Through this, Pollitz continued to change the nature of childhood in the Ottoman Empire and build upon the efforts begun by the CUP prior to his arrival. According to Pollitz, serious offenders were the only children who should be punished through serving time in the “big house.” His practice of releasing less serious offenders under the age of eighteen demonstrates this. Criminal adulthood now began at eighteen and not at the completion of one’s eighteenth year as stipulated in the 1911 version of Article 40 of the IOPC. By lowering the age of criminal adulthood in the Ottoman Empire, he brought it into conformity with European standards.

## **Conclusion**

Today in the Turkish Republic and other Middle Eastern successor states of the Ottoman Empire, adulthood, at least in the eyes of the state, begins at the age of eighteen. At eighteen, youths commence university studies or full time employment, military

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<sup>44</sup> For the documents associated with the pardoning of juvenile offenders, the number of those pardoned, and the requirements for their releases see BOA, DHMBHPS 108/13, 108/16, 108/19, 108/27, 108/31, 109/49, 116/41, 159/16, and 159/36.

service is required, full accountability for one's actions before the law is assumed, and voting rights (if any) are obtained. The roots of this notion of the end of childhood and the commencement of accountability are traced to the last decade of the Ottoman Empire. During the Second Constitutional Period, the Committee of Union and Progress and the Ottoman Prison Administration carried out many reforms regarding the welfare and legal status of children. These penal reforms in conjunction with other reforms, such as the establishment of scouting organizations and secondary education programs, changed the nature of childhood in the Ottoman Empire. In state controlled legal terms, childhood was no longer dependent on the commencement of puberty, but set at a fixed age.

There was now a grey area introduced between the innocence of childhood and full maturation in which a person was partially accountable for their actions. This grey area (adolescence) was viewed as an important time of learning, growing, developing, and preparing, so that once adulthood was reached the individual would be ready and able to benefit, defend, and protect the nation. CUP assumption of power over the legal standing of children and its abrogation of Islamic legal authority over criminal law also reflect the CUP's desire and ability to enter more fully into the lives of its population, especially regarding the family. It was during the Second Constitutional Period that notions of state patriarchy, adolescence, and childhood became intimately linked with national survival and began to be entrenched within the un-colonized Middle East.

## Conclusion

The first attempt to establish a modern penitentiary in the Ottoman Empire, according to contemporary Western European standards, was in 1871. This edifice was located in the imperial center of *Dersaadet* (the old city of Istanbul) in present day Sultanahmet. It represented twenty years of diplomatic pressure and persuasion by the likes of the celebrated British Ambassador to the Ottoman Empire, Sir Stratford Canning. This pressure is best represented by his dictation of the famous 1856 *Islahat Fermanı*, particularly the portion related to penal reform, to his Ottoman counterpart and by Canning's report, "Memorandum on the Improvement of Prisons in Turkey," submitted to the British Foreign Office and to the sultan himself in 1851. The circumstances, significance, and developments of these events were discussed in chapter one. This prison, no matter its 'modern' and seemingly progressive appearance, was nothing more than a show prison for foreign consumption. It did not represent a transition from a regime of indirect rule to one of centralized bureaucratic power, where the state assumes full responsibility for controlling, disciplining, and caring for its population.

This edifice (the Sultanahmet Tevkifhanesi) continued to function as a prison throughout the Hamidian era (1876-1908) in a similar manner as it did under Sultan Abdülaziz. During the Second Constitutional Period, however, it was rebuilt and transformed into a modern penitentiary and functioned according to the stipulations of the 1880 Regulation for Prisons and Houses of Detention. After the Allied occupation of



Istanbul, following Ottoman defeat in World War I and its unconditional surrender in October 1918, a British commission was sent out to inspect this same prison in December 1918 and January 1919. The purpose of this commission was to gain propaganda to use against the Ottomans in the upcoming Paris Peace Conference in order to prove their barbaric and uncivilized nature and therefore demonstrate the empire's unfitness for self-rule. Many authorities were also looking for propaganda to vilify the empire's image and undermine its status and prestige among the Muslim population of India. The atrocious conditions found in this prison were horrifying. After only a few short months of the Allied supervised regime and the ouster of the CUP, prisons had reverted to pre-1911 conditions.<sup>1</sup> The Sultanahmet Tevkifhanesi continued to function as a prison far into the era of the Republic of Turkey. It was not until the 1970s that this prison was decommissioned, sold, and eventually turned into one of the most luxurious hotels in Europe-The Four Seasons Hotel, where the presidential suite costs \$3500 USD a night.

The CUP's seemingly progressive prison reforms do not appear to have been continued by Mustafa Kemal Atatürk and his successors. Similar to many reform programs, idealism appears to have collided with pragmatism, financial constraints, and 'national' interest. Ethnic nationalisms have dominated the scene since the empire's dismemberment and destroyed the comparatively inclusive nationalism promoted by the CUP in the late Ottoman period. Now, I am not attempting to sugar coat the Committee of Union and Progress and paint them as benevolent, incredibly progressive, or as

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<sup>1</sup> BNA, FO 608/114/3; BNA, FO 608/114/4; and BNA, FO 608/52/13.

humanitarian reformers, these were the same individuals who perpetrated extensive programs of ethnic cleansing, mass extermination, and population transfer during World War I.<sup>2</sup> They were also the same individuals, particularly Talat Pasha, Cemal Pasha, and Enver Pasha who fostered an authoritarian government by the end of the Great War, which set horrifying precedents and practices adopted by subsequent ultra nationalist and authoritarian regimes in Italy, Germany, and Japan during the interwar period, and by many current Middle Eastern regimes. In order to understand the modern Middle East, its history must be placed within its late Ottoman context. The reforms, practices, and programs begun during the late nineteenth and early twentieth centuries in the Ottoman Empire have important ramifications not just for the Middle East, but for the contemporary world as a whole.

This study has attempted to demonstrate the importance of one such set of institutional reforms during the Second Constitutional Period. This is not an institutional history of prisons in the Ottoman Empire, per say, but an interpretive endeavor which utilizes Western approaches and methodologies to modern state construction and the role penal institutions played therein to test their applicability to a non-Western region. It is my general conclusion that the ‘modernist’ approach, outlined in the introduction, does apply to the Middle East. In fact, I would argue that it is applicable to every portion of

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<sup>2</sup> For a recently published study regarding the population transfer policies and actions of the Committee of Union and Progress during the Second Constitutional Period associated with other groups besides the Ottoman Empire’s Armenian population see Fuat Dündar, *İttihat ve Terraki’nin Müslümanları İhsan Politikası, 1913-1918* (Istanbul: İletişim Yayınları, 2001) and “The Settlement Policies of the Committee of Union and Progress, 1913-1918” in Hans-Lukas Keiser (ed.) *Turkey beyond Nationalism: towards Post-Nationalist Identities*, ed. (London: I.B. Tauris, 2006), pp. 37-42. See also Erol Ülker, “Contextualising ‘Turkification’: nation-building in the late Ottoman Empire, 1908-18” *Nations and Nationalism* 11 (4), 2005, pp. 613-36.

the world which was being incorporated into the world economic system and world system of nation-states during the nineteenth and twentieth centuries. That being said, I have also demonstrated the unique particularities of modernity and modern state construction in the Ottoman Empire.

Similar to the development of Western European and North American states, the development and centralization of modern penal institutions were central aspects of modern state construction in the late Ottoman Empire in terms of social control and discipline. However, the use of penal institutions by the Committee of Union and Progress went far beyond this. Prisons, in fact, acted as ‘laboratories of modernity’ for nation-state construction wherein many pressing issues historically and culturally specific to Ottoman modernity were tested and worked out. These pressing issues of modernity included Ottoman officials’ attempts to incorporate new constructs of identity utilizing existing terminology, such as *millet*, redefining childhood according to secular law at the expense of *shari’a*, and the introduction of the practice of ‘state patriarchy’ and the concept of adolescence into the Ottoman Empire. They also included economic reform and industrialization through the construction of prison factories, attempts at fostering a unified national identity, the power and use of statistics, administrative reforms, the professionalization of government employees, the establishment of a powerful centralized government, the abrogation of Islamic law, and the state’s assumption of greater responsibility for the welfare, control, and protection of its population, particularly in terms of public health and the rehabilitation of criminals. These issues provide important

insights into the late Ottoman period, CUP pragmatism, and ideology. These are insights which histories focusing on just the institution of the prison are unable to provide.

The effort, time, resources, and energy expended on penal reform by the CUP during the Second Constitutional period prove its importance to the CUP's pragmatic program and idealist vision for the empire. These efforts and the importance of penal institutions to this vision and program must be integrated into the broader picture of nation-state construction within the Ottoman Empire. Only by looking at the Second Constitutional Period in a holistic view does one appreciate the truly revolutionary program members of the CUP were attempting to implement in the Ottoman Empire. Penal reform is but one aspect of the total administrative centralization and nation building program the CUP had in store in order to rescue the empire from destruction. That being said, similar to any revolution and social engineering project around the world during the nineteenth and twentieth centuries, the Committee of Union and Progress was responsible for major atrocities. This is the dark side of nation-state construction and modernity, which must be considered. This is the barbarity of the 'civilized' world in which the Committee of Union and Progress, building upon the foundation laid by nineteenth-century reformers and through its own initiatives, proved that the Ottoman Empire belonged.

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