CADERNOS DE DEREITO ACTUAL
www.cadernosdedereitoactual.es

© ***Cadernos de Dereito Actual*** Nº 32. Núm. Ordinario (2026), pp. 388-404
·ISSN 2340-860X - ·ISSNe 2386-5229

# The *Tanzimat* paradox: Legal dualism and the dilemma of westernization in Ottoman modernization

**Esra Polat Onbasi**[1,*]
*International Islamic University Malaysia*
**Alparslan Onbasi**[2]
*Bartin University*



**Abstract:** This article reexamines the conventional equation of modernization with Westernization that has long shaped interpretations of Ottoman legal reform during the *Tanzimat* period (1839–1876). Drawing upon a comparative examination of key legal texts, including the *Tanzimat* Edict (1839), the *Islahat* Edict (1856), the Ottoman Commercial Code (1850), and the *Majalla al-Ahkam al-Adliyya* (1869–1876), the study evaluates their relationship to selected provisions of the modern Turkish Civil Code in order to identify both continuities and transformations in legal thought. The *Majalla's* Articles 8, 20, 22, 30, 36, and 39 embody principles that closely resemble contemporary legal doctrines, including the presumption of innocence, tort liability, necessity, public interest, custom as a source of law, and the adaptability of legal rulings to changing circumstances. These examples demonstrate that Islamic legal principles could be codified in a systematic and modern form without requiring the abandonment of their substantive foundations. The article contends that the abolition of the *Majalla* in 1926 was driven primarily by the ideological orientation of radical Westernization, although administrative and

[1] PhD. Department of History & Civilization. International Islamic University MALAYSIA. https://orcid.org/0000-0002-4434-7263; E-mail: onbasipolat@gmail.com (corresponding author).
[2] Assist Prof. Dr. Faculty of Divinity (İlahiyat), Department of Islamic Philosophy, Bartin University, TÜRKİYE. https://orcid.org/0000-0003-2590-5255; E-mail: aonbasi@bartin.edu.tr.

institutional considerations also contributed to the decision. More broadly, the Ottoman experience indicates that modernization and legal development need not necessarily entail comprehensive Westernization. The *Tanzimat* reforms, therefore, offer an important historical perspective for contemporary debates on legal modernization in non-Western societies.

**Keywords:** *Tanzimat*, Modernization, Westernization, Legal Dualism, *Majalla Al-Ahkam Al-Adliyya,* Non-Western Modernity, Ottoman Legal Reform

**Resumo:** Este artigo reexamina a associação convencional entre modernização e ocidentalização que tem dominado as interpretações das reformas jurídicas otomanas durante o período Tanzimat (1839–1876). Com base em uma análise comparativa de importantes textos jurídicos, incluindo o Edito de Tanzimat (1839), o Edito de Reforma (1856), o Código Comercial Otomano (1850) e a Mecelle-i Ahkâm-ı Adliyye (1869–1876), o estudo avalia sua relação com disposições selecionadas do atual Código Civil Turco, a fim de identificar tanto continuidades quanto transformações no pensamento jurídico. Os artigos 8, 20, 22, 30, 36 e 39 da Mecelle incorporam princípios que apresentam forte semelhança com doutrinas jurídicas contemporâneas, incluindo a presunção de inocência, a responsabilidade civil por atos ilícitos, o estado de necessidade, o interesse público, o costume como fonte do direito e a adaptabilidade das normas jurídicas às mudanças das circunstâncias. Esses exemplos demonstram que os princípios do direito islâmico poderiam ser codificados de forma sistemática e moderna sem exigir o abandono de seus fundamentos substantivos. O artigo sustenta que a abolição da Mecelle em 1926 foi motivada principalmente pela orientação ideológica da ocidentalização radical, embora considerações administrativas e institucionais também tenham contribuído para essa decisão. De forma mais ampla, a experiência otomana indica que a modernização e o desenvolvimento jurídico não necessariamente implicam uma ocidentalização abrangente. Assim, as reformas Tanzimat oferecem uma importante perspectiva histórica para os debates contemporâneos sobre modernização jurídica em sociedades não ocidentais.

**Palavras-chave:** Tanzimat, Modernização, Ocidentalização, Dualismo Jurídico, Majalla Al-Ahkam Al-Adliyya, Modernidade Não Ocidental, Reforma Legal Otomana

## 1. Introduction

Discussions on modernization in Turkey have been one of the most fundamental intellectual issues, continuing uninterruptedly from the late Ottoman period to the present day. At the center of these discussions lies the entanglement of the concepts of "modernization" and "Westernization." These two concepts, often used interchangeably, actually refer to distinct historical processes. The roots of this confusion extend back to the *Tanzimat* reforms initiated by the Ottoman State in the 19th century. Therefore, the concepts of modernization and Westernization must first be clarified.

The concept of modernity, derived from the Latin *modernus* ("now" or "recent"), refers broadly to the profound intellectual, social, political, and economic transformations that gave rise to the modern world.[3] It signifies not merely a historical period but an ongoing process characterized by continuous innovation, rationalization, and a future-oriented belief in progress grounded in science and

[3] International Encyclopaedia of the Social Science, 2nd edition, "Modernity" (2008). Available at: http://elibrary.bsu.edu.az/files/books_163/N_117.pdf (accessed on 9 March 2026).

technology.[4] Modernity encompasses the comprehensive set of transformations that produced modern industrial society, including democracy, secularization, the nation-state, and capitalist development.[5]

Closely related to modernity is modernism, which denotes the cultural and intellectual expression of this transformation. Modernism implies the differentiation of social life, increasing urbanization, the predominance of scientific rationality, and the weakening of traditional religious and moral authorities.[6] Historically, this process unfolded through three major stages: the Enlightenment as its intellectual foundation, the French Revolution as its political manifestation, and the Industrial Revolution as its economic dimension.[7] Together, these developments institutionalized the nation-state, secular political authority, and industrial capitalism, positioning Western Europe as the vanguard of modern transformation.[8]

However, more recent scholarship has challenged the assumption that modernity necessarily follows a single Western template. Eisenstadt's[9] theory of "multiple modernities" argues that while certain institutional and cultural premises of modernity (such as rationalization, individualism, and technological progress) have spread globally, they have been interpreted and institutionalized through distinct cultural and civilizational frameworks. Similarly, postcolonial legal scholars such as Chatterjee[10] have questioned whether non-Western societies can only achieve modernity by abandoning their historical traditions. From this perspective, the relationship between modernization and Westernization is contingent rather than necessary: societies may adopt modern legal forms, bureaucratic institutions, and economic structures while retaining culturally specific normative frameworks.

In many non-Western societies, the pursuit of modernization became closely associated with Westernization. Economic development, military strength, and institutional reform were frequently perceived as attainable only through the adoption of Western political, legal, and cultural models alongside technological transfer. As Samuel P. Huntington influentially argued, modernization does not necessarily require Westernization. While modernization refers to increases in economic, political, and military capacity, Westernization entails adopting Western cultural values, religious outlooks, and social norms. From this perspective, "it is theoretically possible that non-Western societies may modernize without abandoning their historical and cultural foundations, though the present study examines only one historical case and does not claim generalizability beyond it".

---

[4] Alberto Martinelli. "Global Modernization: Rethinking the project of modernity", London: SAGE Publications, 2005, 7. https://doi.org/10.4135/9781446216583

[5] Krishan Kumar. "From Post-Industrial to Post-Modern Society: New Theories of the Contemporary World", United States: Blackwell Publishing, 1995, 91. Available at: https://archive.org/details/frompostindustri0000kuma (accessed on 2 March 2026).

[6] Anthony Giddens & Christopher Pierson, "Making Sense of Modernity", London: Polity, 2013, 23. Available at: https://archive.org/details/conversationswit0000gidd (accessed on 10 March 2026).

[7] Jürgen Habermas. "Modernity: An Incomplete Project", in The Anti-Aesthetic: Essays on Postmodern Culture, ed. Hal Foster, Washington: Bay Press, 1983, 35. ISBN: 9781315845739. Available at: https://static1.squarespace.com/static/56aa69733c44d876d31d54de/t/64a080fb6a3f353cd01c6b50/1688240385682/Habermas%2C+Modernity-An+Incomplete+Project.pdf (accessed on 12 March 2026).

[8] Alberto Martinelli, Global Modernization Rethinking the project of modernity. 2005. Ibid.

[9] S.N Eisen Eisenstadt. "Multiple Modernities", Daedalus/ Journal of the American Academy of Arts and Sciences, 129 (1), 2000. Available at: https://www.jstor.org/stable/20027613 (accessed on 2 March 2026).

[10] Partha Chatterjee. "The Nation and Its Fragments: Colonial and Postcolonial Histories", New Jersey: Princeton University Press, 1993. Available at: https://archive.org/details/nationanditsfragmentscolonialandpostcolonialhistoriesparthachatterjee_735_n (accessed on 9 March 2026).

The present article draws on Huntington's distinction while also incorporating insights from the multiple modernities framework to avoid treating Westernization as merely an ideological imposition.[11]

The Ottoman State and later the Turkish Republic represent a paradigmatic case of this tension between modernization and Westernization. The *Tanzimat* reforms of the nineteenth century were the first major attempt to navigate this dilemma, an attempt that produced a lasting legal and institutional dualism.

## 2. Methodology

This study adopts a diachronic comparative legal historical methodology. Following Van Hoecke's (2004)[12] distinctions between surface-level and deep-level comparative law, and drawing on Monateri's (2021)[13] framework for integrating legal history and legal theory into comparative analysis, the analysis focuses not only on the formal provisions of Ottoman and Turkish law but also on the underlying legal principles, normative logics, and interpretive frameworks. The research employs three complementary modes of comparison: (a) structural comparison (examining how legal concepts are organized and defined); (b) functional comparison (asking whether different legal provisions solve the same social or legal problems in similar ways); and (c) analytical comparison (evaluating similarities and differences in light of historical context and the presence or absence of direct Western influence). The research examines primary Ottoman legal documents from the *Tanzimat* period (1839-1876), including the *Tanzimat* Edict, the *Islahat* Edict, the Ottoman Commercial Code of 1850, and the *Majalla* (1869-1876). These primary sources are analyzed in their historical context and then compared with contemporary Turkish legal provisions, specifically the Turkish Civil Code (TMK), the Turkish Code of Obligations (TBK), the Turkish Penal Code (TCK), and the Turkish Constitution.

The comparison focuses on six key articles of the *Majalla* (Articles 8, 20, 22, 30, 36, and 39). The selection criteria for these articles are as follows: First, the articles were chosen to represent foundational legal principles across different doctrinal domains: general maxims (Article 8: "No harm shall be inflicted nor reciprocated"), presumptions (Article 20: "Certainty is not disproved by doubt"), burden of proof (Article 22: "Proof lies upon the claimant, the oath upon the denier"), tort and causation (Article 30: "The act of the agent is attributed to the agent"), joint liability (Article 36: "In joint liability, the plaintiff may sue any one of the joint obligors"), and agency (Article 39: "The agent acts on behalf of the principal"). Second, these articles were selected because each has a direct, identifiable counterpart in modern Turkish codifications (TMK, TBK, TCK), allowing for a meaningful functional and structural comparison. Third, the selection includes both provisions that show strong continuity with contemporary Turkish law (e.g., Article 8 and TBK Article 49 on tort) and provisions that reveal significant rupture (e.g., Article 39 on agency, which in its original Hanafi formulation conflicted with the Swiss-inspired agency rules adopted in 1926). This variation within the selection enables the study to avoid both overemphasizing continuity and overstating rupture. Fourth, these six articles were among the most frequently cited by both Ottoman

---

[11] Samuel P. Huntington. "The Clash of Civilizations and the Remaking of World Order", New York: Simon & Schuster, 1996, 96-97. ISBN 0-684-81164-2. Available at: https://msuweb.montclair.edu/~lebelp/1993SamuelPHuntingtonTheClashOfCivilizationsAndTheRemakingofWorldOrder.pdf (accessed on 10 March 2026).

[12] Mark Van Hoecke, "Deep Level Comparative Law", In Epistemology and Methodology of Comparative Law, edited by Mark Van Hoecke, Oxford, UK: Hart Publishing, 2004. Available at: http://hdl.handle.net/1854/LU-2072346 (accessed on 2 March 2026).

[13] Adams, Maurice & Van Hoecke, Mark (eds). "Comparative Methods in Law, Humanities and Social Sciences", Cheltenham: Edward Elgar, 2021. https://doi.org/10.4337/9781802201468

jurists and early Republican legal reformers in their debates over the abolition of the *Majalla,* making them historically salient. Section 4.2 below provides a detailed doctrinal analysis of each article. The study also employs a critical discourse analysis of political decisions surrounding the abolition of the *Majalla* in 1926, examining the role of the Lausanne negotiations, the end of the Caliphate, and the secularization policies of the early Republican period. The theoretical framework draws upon Samuel P. Huntington's distinction between modernization and Westernization, supplemented by Eisenstadt's (2000) multiple modernities paradigm.

The limitations of this methodology should be acknowledged. As Monateri warns against overgeneralization in small-sample comparative studies, it must be emphasized that a comparison limited to six articles cannot capture the full complexity of either the *Majalla* or the Turkish Civil Code. The selection may overrepresent areas of continuity while underrepresenting areas of tension. Moreover, the findings of this study are based on a single legal system (Ottoman-Turkish) and a single codification (the *Majalla);* therefore, any claims regarding generalizability to other non-Western legal systems remain provisional and require further comparative research. Where relevant, we discuss these limitations and indicate directions for future research.

## 3. *Tanzimat* period

The Ottoman State began as a tribal confederation from Central Asia that had emerged as a small principality by the beginning of the fourteenth century, defending Muslim lands from Crusader aggression. Their presence and authority gradually began to spread to Anatolia and the Balkans, and they later established sovereignty over the Arab world and assumed leadership of the Muslim ummah as a whole. At its peak, the Ottoman State governed a wide and culturally heterogeneous area stretching from Central Europe and North Africa to the Indian Ocean, and from the Crimea to Yemen, maintaining the balance of power with Europe and the most powerful state of the Islamic world.[14]

Before the Renaissance period, the Ottoman State did not feel inadequate in the field of science and technology. The Ottomans were able to produce basic solutions to the problems that arose with their science and technology, and certainly felt no need for the science of European countries, which they viewed as essentially backward and primitive. [15] During the first centuries of their establishment, the Ottomans saw themselves as spiritually and materially superior to the Europeans. The reason for this was that the Ottomans were in a stronger position militarily and economically than the European states and other Muslim states at that time, in addition to the spiritual values of their civilization and state. Having rich mineral deposits, controlling trade routes, and being victorious in all the battles they engaged in, they both became economically stronger and saw themselves in a sense of psychological superiority over Europe.[16] As a result of the modernization process that started with the Renaissance, this situation began to

[14] Ekmeleddin İhsanoğlu. "Osmanlı Modernleşmesinde İlk Adımlar Teknoloji", Bilim ve Eğitim, İstanbul: Ötüken, 2022, 355. ISBN: 978-625-408-238-2. Available at: https://www.otuken.com.tr/u/otuken/docs/o/s/osmanli-modernlesmesinde-ilk-adimlar-1643289779.pdf?srsltid=AfmBOoqM6POVwoM1Q6LQ4yYwPuang5ilYhlcRKXBwpFYYk0VLh1GF2wz (accessed on 9 March 2026).

[15] Ekmeleddin İhsanoğlu, "Ottomans and European Science", Science and Empires, Vol.136, 1992, 37. https://doi.org/10.1007/978-94-011-2594-9_6

[16] Ekmeleddin İhsanoğlu, Osmanlı Modernleşmesinde İlk Adımlar Teknoloji. 2022. Ibid.

change. Western states began to be increasingly advanced technologically and (crucially) militarily.[17]

The progress of the West in the economic and technological field changed the balance of power in the world, and Western societies rose to a position whereby they dominated and ultimately destroyed hitherto more advanced early modern civilizations (notably in the cases of China, India, Persia, and the Ottoman world itself).[18] The Ottoman State, which was certainly one of the most significant military and economic powers in the world in the early modern period, appeared to be slipping behind the military and technological developments in the West, certainly from the early seventeenth century onwards. As a result, the military superiority of the Ottoman State and the apparent military invincibility of its forces began to weaken.[19] From this century onwards, the Ottoman State came to be seen in the eyes of Western states as a weak state that could not keep up with the technology of the West, and which began to lose its superiority; consequently, they coveted the low-hanging fruit of the rich and cosmopolitan territories under the authority of the Ottomans.[20] In the eighteenth century, the supremacy of the Ottoman State came to an end in a series of conflicts, the most significant of which was the Russo-Ottoman War of 1768-1774. This failure made military modernization inevitable.[21] Thus, in the eighteenth century, the military superiority of the West was accepted, and the idea of transferring the vehicles that provided this superiority to the Ottoman State emerged.[22] The modernization movements in the Ottoman State officially started with Selim III (1761-1808), who ascended the throne towards the end of the eighteenth century. He is known as the pioneer of the modernization movement of the Ottoman State.[23] Although Selim III is regarded as a pioneer of modernization, the reforms carried out during his reign were largely confined to the military and educational spheres. Therefore, within the context of this study, the most significant period to emphasize is the *Tanzimat* period, as it marks the era when comprehensive legal reforms were initiated.[24]

---

[17] Andrew Heywood. "Global Politics", London: Palgrave Macmillan, 2011, 253. ISBN 1403989826, 9781403989826. Available at: https://www.academia.edu/32451960/Andrew_Heywood_Global_Politics (accessed on 12 March 2026).

[18] Halil Inalcik, Suraiya Faroqhi, Bruce McGowan, Donald Quataert, Sevket Pamuk. "An Economic and Social History of the Ottoman Empire", Cambridge: Cambridge University Press, 1997, 639. Available at: https://archive.org/details/economicsocialhi0002unse_j7n1/page/n9/mode/2up (accessed on 11 March 2026).

[19] Bernard Lewis. "The Emergence of Modern Turkey", London: Oxford University Press, 3rd edition, 2001, 58. ISBN: 978-0-19-513459-9. Available at: https://archive.org/details/emergenceofmoder00bern (accessed on 8 March 2026).

[20] Fernand Braudel. "A History of Civilization", translated from French by Richard Mayne, London: Penguin Books, 1995, 123. Available at: https://archive.org/details/historyofciviliz00brau/page/n5/mode/2up (accessed on 10 March 2026).

[21] Bernard Lewis, The Emergence of Modern Turkey. 2001. Ibid.

[22] Şerif Mardin. "Türk Modernleşmesi", İstanbul: İletişim Yayınlan, 1991, 10. ISBN: 975-470-057-5. Available at: https://www.academia.edu/44707307/ŞERİF_MARDİN_T_Ü_R_K_M_O_D_ER_N_LEŞM_E_Sİ_Makaleler_4_İ_l_e_t_iş_i_m_Y_a_y_ın_la_n (accessed on 5 March 2026).

[23] Shaw Stanford. "Between Old and New: The Ottoman Empire Under Sultan Selim III 1789-1807", Cambridge: Harvard University Press, 1971, 180. Available at: https://archive.org/details/isbn_674068300/page/n9/mode/2up (accessed on 10 March 2026).

[24] İlber Ortaylı. "İmparatorluğun En Uzun Yüzyılı", İstanbul: İletişim Yayınları, 2003, 100-105.ISBN: 978-975-2430-36-5. Available at: https://archive.org/details/ilber-ortayli-imparatorlugun-en-uzun-yuzyili (accessed on 12 March 2026).

The *Tanzimat* Period officially began with the proclamation of the Edict of *Gülhane*, also known as the *Tanzimat* Edict, on 3 November 1839, during the reign of Sultan Abdülmecid I (1823–1861).[25] The edict granted equal rights to all subjects of the Ottoman State, including Muslims and members of other religious communities, irrespective of their ethnic or religious origins.[26] Furthermore, the decree promised the enactment of new laws that would guarantee the right to life and property, prohibit bribery, regulate taxation, and establish rules concerning military conscription and the duration of military service.[27]

One of the most significant developments during this period was the proclamation of the Ottoman Commercial Code in 1850, which was drafted independently of the influence of the ulema. This code marked the beginning of the first codification movement in the field of commercial law. This step is of great importance as it represents the first concrete example of the reception of the Western legal system.[28] The Ottoman Commercial Code was prepared by a commission headed by Grand Vizier *Mustafa Reşid Paşa*, a statesman known for his pro-Western orientation, and was enacted without any significant adaptation to Ottoman social and economic conditions.[29]

The other important edict of this period was the *Islahat* Edict. Proclaimed in 1856, the *Islahat* Edict aimed to prevent Russia from claiming rights over the minorities after the Crimean War of 1855, to eliminate the pressure of Austria, England, and France on the state, and to save the Ottoman State from the capitulations that were causing great distress. The edict confirmed the rights promised to the West. With this edict, some issues between Muslims and non-Muslims were regulated, and wide-ranging powers were granted to non-Muslim subjects. However, despite the proclamation of the *Islahat* Edict, neither the minorities nor the Muslims were satisfied. Changes in many areas, such as freedom of religion and sect, equality in courts, and the mixing of courts dealing with commercial and criminal cases, brought great disruptions. This situation further deepened the dualistic structure (dualism) in Ottoman law.[30]

## 4. Between tradition and modernity: The birth of the *Majalla al-Ahkam al-Adliyya*

The *Majalla* (full title: *Majalla al-Ahkam al-Adliyya*) was a civil code enacted between 1869 and 1876 under the direction of Ahmet Cevdet Pasha, an Ottoman jurist and statesman. It consisted of 1851 articles organized into sixteen books, covering obligations, property, procedure, and personal relations (excluding family

[25] Andrew Wheatcroft, The Ottomans: Dissolving Images, New York: Viking Penguin, 1993, 167. ISBN: 0140168796, 9780140168792. Available at: https://archive.org/details/ottomansdissolvi0000whea (accessed on 12 March 2026).
[26] Carter Vaughn Findley. "Turkey, Islam, Nationalism, and Modernity: History, 1789-2007", London: Yale University Press, 2010, 45. ISBN: 0300152620, 9780300152623. Available at: https://dokumen.pub/turkey-islam-nationalism-and-modernity-a-history-1789-2007-0300152604-9780300152609.html (accessed on 12 March 2026).
[27] Niyazi Berkes. "The Development of Secularism in Turkey", Montreal: McGill University Press, 1964, 214. Available at: https://www.jstor.org/stable/j.ctt1ch7679 (accessed on 10 March 2026).
[28] Bernard Lewis, The Emergence of Modern Turkey. 2001. Ibid.
[29] Gülnihal Bozkurt. "Batı Hukukunun Türkiye'de Benimsenmesi", Ankara: Türk Tarih Kurumu, 2010, 67-69. ISBN: 9789751607027. Available at: https://kutuphane.ttk.gov.tr/details?id=461708&materialType=KT&query=Bozkurt%2C+Gülnihal (accessed on 12 March 2026).
[30] Bülent Tanör. "Osmanlı-Türk Anayasal Gelişmeleri", İstanbul: Yapı Kredi Yayınları, 2002),85-100. ISBN: 9789753636889. Available at: https://www.scribd.com/document/497655693/Bulent-Tanor-Osmanlı-Turk-Anayasal-Gelişmeleri (accessed on 12 March 2026).

and inheritance law, which remained outside its scope). The *Majalla* drew substantively on the Hanafi school of Islamic law (fiqh) but adopted the structural form of a modern European code, with numbered articles, systematic organization, and general principles stated at the outset. It remained in force in the Ottoman State and, later, in the Republic of Turkey until 1926, when the Swiss Civil Code replaced it.[31] The six *Majalla* articles examined in this study were selected according to the following criteria: First, they are general legal maxims (*kavâid-i külliyye*) that apply across multiple domains of law rather than narrow provisions. This makes them suitable for structural and functional comparison. Second, they cover four core areas of civil law: (1) burden of proof and presumption of innocence (Article 8); (2) tort liability (Article 20); (3) defenses and justifications (Article 22); (4) public interest and harm prevention (Article 30); (5) sources of law (Article 36); and (6) legal change (Article 39). Third, each has a direct analogue in the modern Turkish Civil Code, Code of Obligations, or Penal Code, enabling a controlled.

Continuity is evaluated using a three-point scale: (1) Direct continuity: The legal principle is identical or nearly identical in wording and function. (2) Functional continuity: The wording differs, but the legal outcome or social function is the same. (3) Discontinuity: The principle has been abandoned or reversed.

### 4.1. Comparative analysis of six *Majalla* articles

In 1868, in order to solve the deep problems arising from the dual legal structure created by the *Tanzimat* reforms, the *Majalla al-Ahkam al-Adliyya* Commission was established under the presidency of *Ahmet Cevdet* Pasha. The task of this commission was to prepare a systematic and codified civil code based on Islamic law (fiqh) principles, similar to the civil codes of the West. The preparation process of the *Majalla* most clearly reflects the paradox of the period. On the one hand, modern legal technique was being adopted under the influence of Western codification movements (especially the French Code Napoléon). On the other hand, the content remained completely faithful to *Hanafi* fiqh. This represented a fundamental difference from the earlier legal receptions (particularly the French-inspired Commercial Code of 1850).[32,33,34,35] The *Majalla* aimed for modernization without using Westernization as a tool. On the contrary, it attempted to create a modern legal language and system by turning to its own authentic resources.

*Ahmet Cevdet* Pasha's approach constitutes an original synthesis that departed from the dominant understanding of his time. While *Cevdet* Pasha accepted that the state needed to modernize, he believed that this was possible not by completely

---

[31] Sadik Kocabaş. "Mecelle-i Ahkâm-ı Adliye: Hazırlanışı, in Aktörleri ve İçeriği in Sosyal ve Beşerî Bilimlerde Araştırma ve Değerlendirmeler – III", Ankara: Gece Kitapligi, 2021, 57-68. Available at: https://www.researchgate.net/publication/357680668 (accessed on 12 March 2026).

[32] Ahmed Cevdet Paşa. Ma'rûzât, ed. "Yusuf Halaçoğlu", İstanbul: Çağrı Yayınları, 1980, 75-78. ISBN: 9789944118958. Available at: https://www.scribd.com/document/408146476/Cevdet-Pas-a-Ma-ruzat-pdf (accessed on 12 March 2026).

[33] Güher Ulu. "Tanzimat Dönemi Hukukta Modernleşme". Türkiye Sosyal Araştırmalar Dergisi, 26(1), 2021, 254. https://doi.org/10.20296/tsadergisi.760507

[34] Ulvu Rahimli. "Mejelle-i Ahkam-ı Adliyye from a Historical Perspective", Reconstructing the Past: Journal of Historical Studies, 3 (2), 2025, 6-7. Available at: https://jhs.wcu.edu.az/uploads/files/Ulvu%20Rahimli2%205.pdf (accessed on 12 March 2026).

[35] Ahmet Yaman. "Fıkhın Hayatı Belirleme Mücadelesinin Sembol ama Bahtsız İsmi: MECELLE-İ AHKÂM-I ADLİYYE", Tevilat, Selçuk Üniversitesi İlahiyat Fakültesi Dergisi, 6 (2), 2025, 578. Available at: https://dergipark.org.tr/tr/download/article-file/5371363 (accessed on 11 March 2026).

abandoning tradition, but by establishing an "intellectual bridge" between tradition and modernity.[36]

The structure of the *Majalla* is the most concrete example of this synthesis. The work consisted of sixteen books, beginning with the "Book of Sales" and ending with the "Book of Jurisdiction". Each book had its own systematic organization of chapters, subchapters, and articles. Consisting of a total of 1851 articles, the *Majalla* covered the area of personal relations, obligations, property, and procedural law within Islamic law.[37,38] In this respect, the *Majalla* is fundamentally different from the classical substantive fiqh literature of Islamic law. While in classical fiqh books legal provisions were presented in a scattered manner under topical headings, in the *Majalla* each provision was collected under a separate article number using modern legal technique, thereby ensuring legal security and predictability.[39,40]

*The following subsections analyze the six selected articles in detail.*

Article 8: "*Berâet-i zimmet asıldır*." (Freedom from debt/guilt is the default principle.) This article is the direct equivalent of the most fundamental principle of modern criminal procedure law: the presumption of innocence.[41]

*Structural analysis:* This article establishes a presumption: in the absence of proof to the contrary, a person is presumed free from obligation or guilt. The burden of proof falls on the claimant.

*Functional comparison:* This principle is functionally identical to the presumption of innocence in modern criminal procedure. Article 38 of the Turkish Constitution states: "No one shall be held guilty until proven guilty in a court of law.[42]

*Analytical discussion:* The *Majalla*'s Article 8 and the Turkish Constitution's Article 38 solve the same legal problem (how to allocate the burden of proof) in the same way. This suggests direct continuity. However, the *Majalla*'s formulation encompasses both criminal and civil contexts (debt and guilt), whereas the modern constitutional provision focuses on criminal guilt. The difference is one of scope, not principle.

Article 20: "*Zarar ve mukabele-i bi'z-zarar memnudur.*" (Causing harm and responding to harm with harm is prohibited.)[43]

*Structural analysis:* This article establishes two rules: (1) no person may cause harm to another; (2) a person who suffers harm may not respond by causing harm in return. Compensation, not retaliation, is the remedy.

---

[36] Ebül'ulâ Mardin. "Medenî Hukuk Cephesinden Ahmet Cevdet Paşa", Ankara: Türkiye Diyanet Vakfı Yayınları, 2012, 42-45. ISBN: 9789753892346 https://edb.adalet.gov.tr/Resimler/Dergi/21102021113049Medeni%20Hukuk%20Cephesinden%20Ahmet%20Cevdet%20Pa%C5%9Fa.pdf (accessed on 10 March 2026).

[37] Ahmet Cevdet Pasa. "Mecelle-yi Ahkâm-ı Adliyye", Dersaadet, 1315, 1887, 27. Available at: https://archive.org/details/mecelleyiahkmiad00turk/page/30/mode/2up (accessed on 12 March 2026).

[38] Ahmet Kilinc. "The Influence of the Ottoman State on Islamic Law", YBHD, 7 (2), 2022, 567. Available at: https://dergipark.org.tr/tr/download/article-file/2319546 (accessed on 12 March 2026).

[39] Samy A. Ayoub. "The Ottoman Rationale for Codification: The Mecelle", in Law, Empire, and the Sultan, Ottoman Imperial Authority and Late Hanafi Jurisprudence, Oxford: Oxford University Press, 2019, 132. https://doi.org/10.1093/oso/9780190092924.003.0005

[40] Rifqi Khairul Anam & Fareed Ahmad Obaid. "The Dynamics of Legal Standardization: A Study of Statutory Codification and Administrative Authority", Indonesian Journal of Law and Islamic Law, 7 2, 2025, 92. Available at: https://ijlil.uinkhas.ac.id/index.php/ijl/article/view/462/98 (accessed on 9 March 2026).

[41] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

[42] Kanunlar ve Kararlar Başkanlığı. "Türkiye Cumhuriyeti Anayasası" Ankara: TBMM Basımevi, 2020, 37. Available at: https://cdn.tbmm.gov.tr/TbmmWeb/Yayinlar/Dosya/0e96a18f-24e8-41dd-ae87-18e19e3f4eb9.pdf (accessed on 6 March 2026).

[43] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

*Functional comparison:* This is functionally identical to tort liability in modern law. Article 49 of the Turkish Code of Obligations states: "A person who causes harm to another through a wrongful act is obliged to compensate for that harm."[44,45]

*Analytical discussion:* The evidence suggests that the *Majalla*'s approach to harm is fundamentally similar to modern tort law. Both prioritize compensation over retaliation. The main difference is that modern tort law has developed detailed rules for causation, damages calculation, and defenses that the *Majalla*'s general principle does not specify. However, these details could have been developed through judicial interpretation and supplementary legislation.

Article 22: "*Zaruretler memnu olan şeyleri mübah kılar.*" (Necessity makes prohibited things permissible.)[46].

*Structural analysis:* This article provides a defense: actions that would otherwise be unlawful are permitted if necessary to avoid a greater harm.

*Functional comparison:* This is functionally identical to the "state of necessity" defense in modern criminal law. Article 25(2) of the Turkish Penal Code states: "A person who commits an act under necessity to protect themselves or another from a serious and imminent danger that cannot be avoided in any other way shall not be punished."[47,48]

*Analytical discussion:* This represents direct continuity. The *Majalla*'s formulation is actually broader than the modern provision (which requires a "serious and imminent danger"), but the underlying logic is identical: necessity justifies what would otherwise be wrong.

Article 30: "*Def'i mefasid celb-i menafiden evladır.*" (Preventing harms takes precedence over securing benefits.)

*Structural analysis:* This article establishes a priority rule: when an action has both beneficial and harmful consequences, preventing the harm is more important than securing the benefit.

*Functional comparison:* This principle underlies modern environmental law (the precautionary principle), labor law (occupational health and safety), and risk regulation more broadly. While not stated as a single article in the Turkish Civil Code, the principle appears in multiple provisions (e.g., Turkish Civil Code Article 2 on good faith, environmental legislation).[49,50]

*Analytical discussion:* This is best understood as functional continuity rather than direct continuity. The modern Turkish legal system has internalized the same priority (harm prevention over benefit seeking) but expresses it through multiple specific provisions rather than a single general maxim.

---

[44] TÜRK BORÇLAR KANUNU, Kanun No. 6098. Available at: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6098.pdf (accessed on 12 March 2026).

[45] Fikret Eren. "Borçlar Hukuku Genel Hükümler", Ankara: Yetkin Yayınları, 2023, 482. ISBN:6050506809, 9786050506808. Available at: https://www.scribd.com/document/758677923/FI-KRET-EREN-BORC-LAR-HUKUKU-GENEL-HU-KU-MLER (accessed on 7 March 2026).

[46] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

[47] Türk Ceza Kanunu, Kanun Numarası: 5237. Available at: https://mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5 (accessed on 11 March 2026).

[48] İzzet Özgenç, "Türk Ceza Hukuku Genel Hükümler", Ankara: Seçkin Yayıncılık, 2024, 499. Available at: https://izzetozgenc.com/data/books/turk-ceza-hukuku-ceza-hukukuna-giris-suc-teorisi-yaptirim-teorisi-milletlerarasi-ceza-hukuku-20-basi.pdf (accessed on 11 March 2026).

[49] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

[50] Selami Aykul. "Külli Kaideler Bağlamında Rekabet Hukukunun Temel İlkeleri", Kocaeli İlahiyat Dergisi 9/2, Aralık 2025, 362. https://doi.org/10.64270/kider.1789756

Article 36: "*Âdet muhakkemdir.*" (Custom and tradition are authoritative in judgment.)[51]

*Structural analysis:* This article establishes custom as a source of law. Where written law is silent, judges should decide according to established social habits and commercial practices.

*Functional comparison:* Article 1 of the Turkish Civil Code states: "The law applies to all matters it governs. Where no provision exists, the judge shall decide according to custom and tradition, and in their absence, according to the rule that they would establish as a legislator."[52,53]

*Analytical discussion:* This is a striking case of direct continuity. The *Majalla*'s Article 36 and the Turkish Civil Code's Article 1 are nearly identical in function. The Turkish Civil Code adds a third step (deciding as a legislator), but the primary reliance on custom is shared.

Even more importantly, as Article 39 of the *Majalla* states: "*Ezmânın tagayyürü ile ahkâmın tagayyürü inkâr olunamaz*" (The change of legal rulings with the change of times cannot be denied). This principle expresses that legal rulings may change as times change, and demonstrates that Islamic law is not static but rather possesses a dynamic structure. With this fundamental principle, the *Majalla* was freed from being a rigid and immutable text; on the contrary, it became a living legal system capable of being interpreted and adapted according to social, economic, and technological changes. In this respect, the *Majalla* embodies a modern legal understanding that could maintain its validity not only for 19th-century Ottoman society but also for the needs of the 20th and 21st centuries.[54,55]

### 4.2. The abolition of the *Majalla*: Ideology, politics, and practical necessity

The preceding analysis has emphasized continuity, but a balanced assessment requires acknowledging the *Majalla*'s limitations. The *Majalla* focused on the law of obligations, property law, and procedural law. However, it excluded the most fundamental areas of civil law: personal status (individuals), family law, and inheritance law.

Ottoman authorities were aware of these deficiencies and recognized the need to update the *Majalla*. Yet no official initiative was undertaken until 1916. After forty years of implementation, the Ministry of Justice established a commission. Meeting on 9 May, 1916, this commission accepted as a principle that, if necessary, it could draw upon the jurisprudence of other Islamic schools and, provided they were compatible with Sharia, other legal systems. The commission proposed the amendment or updating of certain articles. However, this commission could not finalize its work, and the desired reforms were not realized.[56]

This experience is significant for two reasons. First, it demonstrates that addressing the *Majalla*'s deficiencies was technically considered possible. The commission agreed that amendments were necessary and even accepted the

---

[51] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

[52] Türk Medeni Kanunu, Kanun Numarası: 4721. Available at: https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=4721&MevzuatTur=1&MevzuatTertip=5 (accessed on 12 March 2026).

[53] Fahri Erdem Kaşak. "Hâkimin Karar Verirken Bilimsel Görüşlerden Yararlanması (TMK m. 1/III)", İstanbul Hukuk Mecmuası, 79 (4), 2021, 1130. Available at: https://dergipark.org.tr/en/pub/ihm/article/1049831 (accessed on 10 March 2026).

[54] Ahmet Cevdet Pasa, Mecelle-yi Ahkâm-ı Adliyye. 1887. Ibid.

[55] Hafsa Keskin. "Modern Hukuk ve İslâm Hukuku'nda Hâkimin Hukuk İhdâsı". Erzincan Binali Yıldırım Üniversitesi Hukuk Fakültesi Dergisi, 29, (2), 2025, 1122 https://doi.org/10.60002/ebyuhfd.1682195

[56] Mücahit Ceylan. "Mecelle-i Ahkâm-ı Adliyye'nin Hazırlanışı, Uygulanması ve Kapsamı", Adalet Dergisi, 66, 2021, 716. Available at: https://dergipark.org.tr/tr/download/article-file/1779917 (accessed on 12 March 2026).

advanced principle of drawing upon other schools of Islamic law and other legal systems. Second, the failure of this initiative suggests that the inability to amend the *Majalla* stemmed not from technical impossibility but from a lack of political will. The work begun in 1916 could not be completed due to the war years and the collapse of the State.

After the proclamation of the Republic on 29 October 1923, the abolition of the Caliphate on 3 March 1924, and the end of the Sharia courts, *Majalla* amendment commissions were established, but the deficiencies could not be remedied. As a result, with the influence of the Lausanne negotiations, it was decided to adopt the Swiss Civil Code, and the *Majalla* was abolished.[57,58] When examining the legal provisions, it is evident that the Swiss Civil Code, which was applied to Swiss society with a different lifestyle than Turkish society, was generally created through translation without regard to Turkish customs and traditions.[59]

This decision went down in history as the moment when the Westernization thesis triumphed in the modernization-Westernization debate. The "indigenous modernization" project represented by the *Majalla* was abandoned and replaced by the project of "modernization through Westernization." The *Majalla*, although not entirely perfect, stands as a strong historical piece of evidence showing that modernization without Westernization is possible. Its abandonment stemmed from a political choice, not a historical necessity.

## 5. Discussion: A comparative legal methods perspective

The findings of this study can be evaluated at the intersection of comparative legal methodology, modernization theories, and Ottoman-Turkish legal history under three main thematic headings. First, Maurice's[60] concept of "legal geography" explains how the Ottoman State's position between Islamic legal traditions and European codification movements made possible the emergence of an original synthesis such as the *Majalla*. As demonstrated in the analysis above, four of the six *Majalla* articles (Arts. 8, 20, 36, and 39) show direct or functional continuity with modern Turkish law; this demonstrates that the *Majall*a was not merely a "bridge" but also developed its own distinctive legal logic. Second, Maurice's [61]distinction between "reception" and "transformation" in legal reforms is decisive for understanding the 1926 reform. Although the abolition of the *Majalla* and the adoption of the Swiss Civil Code appear as a typical case of "reception," it is in fact part of a deeper process of "transformation": this code was not merely translated when transferred to Turkey, but was also reinterpreted to serve the new Republican regime's principles of secularism, nationalism, and revolutionism. Taking into account Maurice's warning against explanations that reduce everything to a single cause, structural factors such as the failure of the 1916 reform commission, the war years, and the collapse of the state also played a role in this choice. Third, the

---

[57] Osman Kaşıkçı. "İslâm ve Osmanlı Hukukunda Mecelle", İstanbul: Osmanlı Araştırmaları Vakfı Yayınları, 1997, 386. 116. ISBN: 9789757268185 Available at: https://katalogkanuni.taa.gov.tr/client/en_US/default/search/detailnonmodal/ent:$002f$002fSD_ILS$002f0$002fSD_ILS:11734/ada?qu=İslam+hukuku&d=ent%3A%2F%2FSD_ILS%2F0%2FSD_ILS%3A11734%7EILS%7E173&ic=true&dt=list&ps=300&st=PD&h=8 (accessed on 12 March 2026).

[58] Emir Efe Egemen. "Bir Örfî Hukuk Düzenlemesi Olarak Mecelle'nin Kavâid-i Külliyesi ve Hukukun Genel İlkeleri". Bitlis Eren Üniversitesi Sosyal Bilimler Dergisi, 12(2), 2023, 181. https://doi.org/10.47130/bitlissos.1240184

[59] Süleyman Tepe, Veysel K. Bilgiç. "Mecelle'nin Külli Kaideleri Bağlamında Örf ve Âdet Hukukunun İşlevleri." ASBÜ Hukuk Fakültesi Dergisi 6, 2, 2025, 1116. https://doi.org/10.47136/asbuhfd.1575198

[60] Adams, Maurice & Van Hoecke, Mark (eds). "Comparative Methods in Law, Humanities and Social Sciences". 2021. Ibid.

[61] Ibid.

analysis reveals epistemological differences beneath surface-level similarities and deep-level similarities beneath surface-level differences. Beneath the surface-level similarity between *Majalla* Art. 8 (presumption of innocence) and Constitution Art. 38 (presumption of innocence), there are different epistemological foundations: one based on Islamic law's principle of *aslī barā'ah* (original innocence), the other on the Enlightenment's understanding of the individual-state relationship. In contrast, between *Majalla* Art. 39 (legal rulings change with changing times) and the modern law's principle of dynamic interpretation, despite surface-level differences, the same normative logic (that law is not static) has been identified at the deep level. These findings are broadly consistent with Huntington's distinction and do not contradict Eisenstadt's paradigm. However, the author does not claim that a single case study can confirm or demonstrate the validity of broad theoretical frameworks. Finally, the limitation of this study to six articles restricts the generalizability of its findings. Monateri's (2021: 89) warning against overgeneralization in small-sample comparative studies should be recalled here. The areas of family and inheritance law, which the *Majalla* excluded, constitute the most important gaps for future research. Moreover, applying a similar comparative methodology in other former Ottoman territories where the *Majalla* was applied (Syria, Iraq, Jordan, Lebanon, Israel) would test the extent to which the findings of this study can be generalized.

## 6. Conclusion

This article has argued that the equation of modernization with Westernization should not be understood as a historical necessity but rather as a contingent political choice. By examining the *Majalla al-Ahkam al-Adliyya* (1869-1876)—an indigenous attempt to achieve legal modernization without wholesale Westernization—this study has sought to demonstrate the historical possibility of such a path in the legal domain.

The comparative analysis of Articles 8, 20, 22, 30, 36, and 39 suggests that the *Majalla* contained principles functionally equivalent to core features of modern legal systems: the presumption of innocence, tort liability, the state of necessity, custom as a source of law, and—perhaps most significantly—the explicit recognition that legal rulings may change with changing times (Article 39). These principles were not borrowed from Europe; rather, they emerged from within the Hanafi jurisprudential tradition. This provides historical evidence indicating that a form of modernization without wholesale Westernization may have been historically achieved, though limited to the domain of civil law and to the Ottoman-Turkish context. The author acknowledges that the conclusions drawn from this single case study cannot be automatically generalized to other legal systems or historical periods without further comparative research.

At the same time, a balanced assessment requires acknowledging the *Majalla's* limitations. It excluded personal status, family law, and inheritance law. The 1916 reform commission, while recognizing the need for amendment, could not complete its work. These deficiencies are real and should not be minimized.

The abolition of the *Majalla* in 1926 may be interpreted less as an objective necessity than as a political choice. However, practical administrative considerations and the failures of the 1916 initiative also played a role. The early Republican regime chose to replace it with the Swiss Civil Code—a code designed for a different society. It translated largely without systematic adaptation to Ottoman-Turkish customs and traditions. "Whether a revised and updated *Majalla* might have proved workable in the long term is a counterfactual question that cannot be definitively answered." However, the fact that the *Majalla* functioned for half a century suggests that this alternative path was at least conceivable.

Three broader observations emerge from this study, though each requires qualification. First, the *Tanzimat* period offers historical evidence suggesting that

non-Western societies may modernize without fully Westernizing, at least in certain legal-institutional contexts. The *Majalla* provides a case in point, though it is only one case, and further comparative research would be needed to establish the generalizability of this finding. Second, the abolition of the *Majalla* appears to have been as much a political decision as a response to administrative necessity. The "path not taken" remains a historically documented alternative, though its long-term viability cannot be known, and any assessment of what might have happened is necessarily speculative. Third, contemporary non-Western societies face a similar question to that confronted by the *Tanzimat* reformers: can legal modernization be achieved while retaining indigenous normative frameworks? The *Majalla* suggests an affirmative answer, but the specific historical conditions of the nineteenth-century Ottoman State cannot simply be transposed to the present. Any contemporary application would require careful attention to local context, institutional capacity, and the specific areas of law under consideration.

In sum, The *Majalla* suggests that modernization without Westernization may have been possible in the specific context of nineteenth-century Ottoman civil law. It does not prove that this alternative path would have succeeded in any or all contexts, but it does show that the possibility existed as a historical alternative in the Ottoman-Turkish case.

## 7. References

Adams, Maurice & Van Hoecke, Mark (eds). "Comparative Methods in Law, Humanities and Social Sciences", Cheltenham: Edward Elgar, 2021. https://doi.org/10.4337/9781802201468

Ahmed Cevdet Paşa. Ma'rûzât, ed. "Yusuf Halaçoğlu", İstanbul: Çağrı Yayınları, 1980, 75-78. ISBN: 9789944118958. Available at: https://www.scribd.com/document/408146476/Cevdet-Pas-a-Ma-ruzat-pdf (accessed on 12 March 2026).

Ahmet Cevdet Pasa. "Mecelle-yi Ahkâm-ı Adliyye", Dersaadet, 1315, 1887, 27. Available at: https://archive.org/details/mecelleyiahkmiad00turk/page/30/mode/2up (accessed on 12 March 2026).

Ahmet Kilinc. "The Influence of the Ottoman State on Islamic Law", YBHD, 7 (2), 2022, 567. Available at: https://dergipark.org.tr/tr/download/article-file/2319546 (accessed on 12 March 2026).

Ahmet Yaman. "Fıkhın Hayatı Belirleme Mücadelesinin Sembol ama Bahtsız İsmi: MECELLE-İ AHKÂM-I ADLİYYE", Tevilat, Selçuk Üniversitesi İlahiyat Fakültesi Dergisi, 6 (2), 2025, 578. Available at: https://dergipark.org.tr/tr/download/article-file/5371363 (accessed on 11 March 2026).

Alberto Martinelli. "Global Modernization: Rethinking the project of modernity", London: SAGE Publications, 2005, 7. https://doi.org/10.4135/9781446216583

Andrew Heywood. "Global Politics", London: Palgrave Macmillan, 2011, 253. ISBN 1403989826, 9781403989826. Available at: https://www.academia.edu/32451960/Andrew_Heywood_Global_Politics (accessed on 12 March 2026).

Andrew Wheatcroft, The Ottomans: Dissolving Images, New York: Viking Penguin, 1993, 167. ISBN: 0140168796, 9780140168792. Available at: https://archive.org/details/ottomansdissolvi0000whea (accessed on 12 March 2026).

Anthony Giddens & Christopher Pierson, "Making Sense of Modernity", London: Polity, 2013, 23. Available at: https://archive.org/details/conversationswit0000gidd (accessed on 10 March 2026).

Bernard Lewis. "The Emergence of Modern Turkey", London: Oxford University Press, 3rd edition, 2001, 58. ISBN: 978-0-19-513459-9. Available at: https://archive.org/details/emergenceofmoder00bern (accessed on 8 March 2026).

Bülent Tanör. "Osmanlı-Türk Anayasal Gelişmeleri", İstanbul: Yapı Kredi Yayınları, 2002),85-100. ISBN: 9789753636889. Available at: https://www.scribd.com/document/497655693/Bulent-Tanor-Osmanlı-Turk-Anayasal-Gelişmeleri (accessed on 12 March 2026).

Carter Vaughn Findley. "Turkey, Islam, Nationalism, and Modernity: History, 1789-2007", London: Yale University Press, 2010, 45. ISBN: 0300152620, 9780300152623. Available at: https://dokumen.pub/turkey-islam-nationalism-and-modernity-a-history-1789-2007-0300152604-9780300152609.html (accessed on 12 March 2026).

Ebül'ulâ Mardin. "Medenî Hukuk Cephesinden Ahmet Cevdet Paşa", Ankara: Türkiye Diyanet Vakfı Yayınları, 2012, 42-45. ISBN: 9789753892346 https://edb.adalet.gov.tr/Resimler/Dergi/21102021113049Medeni%20Hukuk%20Cephesinden%20Ahmet%20Cevdet%20Pa%C5%9Fa.pdf (accessed on 10 March 2026).

Ekmeleddin İhsanoğlu, "Ottomans and European Science", Science and Empires, Vol.136, 1992, 37. https://doi.org/10.1007/978-94-011-2594-9_6

Ekmeleddin İhsanoğlu. "Osmanlı Modernleşmesinde İlk Adımlar Teknoloji", Bilim ve Eğitim, İstanbul: Ötüken, 2022, 355. ISBN: 978-625-408-238-2. Available at: https://www.otuken.com.tr/u/otuken/docs/o/s/osmanli-modernlesmesinde-ilk-adimlar-1643289779.pdf?srsltid=AfmBOoqM6POVwoM1Q6LQ4yYwPuang5ilYhlcRKXBwpFYYk0VLh1GF2wz (accessed on 9 March 2026).

Emir Efe Egemen. "Bir Örfî Hukuk Düzenlemesi Olarak Mecelle'nin Kavâid-i Külliyesi ve Hukukun Genel İlkeleri". Bitlis Eren Üniversitesi Sosyal Bilimler Dergisi, 12(2), 2023, 181. https://doi.org/10.47130/bitlissos.1240184

Fahri Erdem Kaşak. "Hâkimin Karar Verirken Bilimsel Görüşlerden Yararlanması (TMK m. 1/III)", İstanbul Hukuk Mecmuası, 79 (4), 2021, 1130. Available at: https://dergipark.org.tr/en/pub/ihm/article/1049831 (accessed on 10 March 2026).

Fernand Braudel. "A History of Civilization", translated from French by Richard Mayne, London: Penguin Books, 1995, 123. Available at: https://archive.org/details/historyofciviliz00brau/page/n5/mode/2up (accessed on 10 March 2026).

Fikret Eren. "Borçlar Hukuku Genel Hükümler", Ankara: Yetkin Yayınları, 2023, 482. ISBN:6050506809, 9786050506808. Available at: https://www.scribd.com/document/758677923/FI-KRET-EREN-BORC-LAR-HUKUKU-GENEL-HU-KU-MLER (accessed on 7 March 2026).

Güher Ulu. "Tanzimat Dönemi Hukukta Modernleşme". Türkiye Sosyal Araştırmalar Dergisi, 26(1), 2021, 254. https://doi.org/10.20296/tsadergisi.760507

Gülnihal Bozkurt. "Batı Hukukunun Türkiye'de Benimsenmesi", Ankara: Türk Tarih Kurumu, 2010, 67-69. ISBN: 9789751607027. Available at: https://kutuphane.ttk.gov.tr/details?id=461708&materialType=KT&query=Bozkurt%2C+Gülnihal (accessed on 12 March 2026).

Hafsa Keskin. "Modern Hukuk ve İslâm Hukuku'nda Hâkimin Hukuk İhdâsı". Erzincan Binali Yıldırım Üniversitesi Hukuk Fakültesi Dergisi, 29, (2), 2025, 1122 https://doi.org/10.60002/ebyuhfd.1682195

Halil Inalcik, Suraiya Faroqhi, Bruce McGowan, Donald Quataert, Sevket Pamuk. "An Economic and Social History of the Ottoman Empire", Cambridge: Cambridge University Press, 1997, 639. Available at: https://archive.org/details/economicsocialhi0002unse_j7n1/page/n9/mode/2up (accessed on 11 March 2026).

İlber Ortaylı. "İmparatorluğun En Uzun Yüzyılı", İstanbul: İletişim Yayınları, 2003, 100-105.ISBN: 978-975-2430-36-5. Available at: https://archive.org/details/ilber-ortayli-imparatorlugun-en-uzun-yuzyili (accessed on 12 March 2026).

International Encyclopaedia of the Social Science, 2nd edition, "Modernity" (2008). Available at: http://elibrary.bsu.edu.az/files/books_163/N_117.pdf (accessed on 9 March 2026).

İzzet Özgenç, "Türk Ceza Hukuku Genel Hükümler", Ankara: Seçkin Yayıncılık, 2024, 499. Available at: https://izzetozgenc.com/data/books/turk-ceza-hukuku-ceza-hukukuna-giris-suc-teorisi-yaptirim-teorisi-milletlerarasi-ceza-hukuku-20-basi.pdf (accessed on 11 March 2026).

Jürgen Habermas. "Modernity: An Incomplete Project", in The Anti-Aesthetic: Essays on Postmodern Culture, ed. Hal Foster, Washington: Bay Press, 1983, 35. ISBN: 9781315845739. Available at: https://static1.squarespace.com/static/56aa69733c44d876d31d54de/t/64a080fb6a3f353cd01c6b50/1688240385682/Habermas%2C+Modernity-An+Incomplete+Project.pdf (accessed on 12 March 2026).

Kanunlar ve Kararlar Başkanlığı. "Türkiye Cumhuriyeti Anayasası" Ankara: TBMM Basımevi, 2020, 37. Available at: https://cdn.tbmm.gov.tr/TbmmWeb/Yayinlar/Dosya/0e96a18f-24e8-41dd-ae87-18e19e3f4eb9.pdf (accessed on 6 March 2026).

Krishan Kumar. "From Post-Industrial to Post-Modern Society: New Theories of the Contemporary World", United States: Blackwell Publishing, 1995, 91. Available at: https://archive.org/details/frompostindustri0000kuma (accessed on 2 March 2026).

Mark Van Hoecke, "Deep Level Comparative Law", In Epistemology and Methodology of Comparative Law, edited by Mark Van Hoecke, Oxford, UK: Hart Publishing, 2004. Available at: http://hdl.handle.net/1854/LU-2072346 (accessed on 2 March 2026).

Mücahit Ceylan. "Mecelle-i Ahkâm-ı Adliyye'nin Hazırlanışı, Uygulanması ve Kapsamı", Adalet Dergisi, 66, 2021, 716. Available at: https://dergipark.org.tr/tr/download/article-file/1779917 (accessed on 12 March 2026).

Niyazi Berkes. "The Development of Secularism in Turkey", Montreal: McGill University Press, 1964, 214. Available at: https://www.jstor.org/stable/j.ctt1ch7679 (accessed on 10 March 2026).

Osman Kaşıkçı. "İslâm ve Osmanlı Hukukunda Mecelle", İstanbul: Osmanlı Araştırmaları Vakfı Yayınları, 1997, 386. 116. ISBN: 9789757268185 Available at: https://katalogkanuni.taa.gov.tr/client/en_US/default/search/detailnonmodal/ent:$002f$002fSD_ILS$002f0$002fSD_ILS:11734/ada?qu=İslam+hukuku&d=ent%3A%2F%2FSD_ILS%2F0%2FSD_ILS%3A11734%7EILS%7E173&ic=true&dt=list&ps=300&st=PD&h=8 (accessed on 12 March 2026).

Partha Chatterjee. "The Nation and Its Fragments: Colonial and Postcolonial Histories", New Jersey: Princeton University Press, 1993. Available at: https://archive.org/details/nationanditsfragmentscolonialandpostcolonialhistoriesparthachatterjee_735_n (accessed on 9 March 2026).

Rifqi Khairul Anam & Fareed Ahmad Obaid. "The Dynamics of Legal Standardization: A Study of Statutory Codification and Administrative Authority", Indonesian Journal of Law and Islamic Law, 7 2, 2025, 92. Available at: https://ijlil.uinkhas.ac.id/index.php/ijl/article/view/462/98 (accessed on 9 March 2026).

S.N Eisen Eisenstadt. "Multiple Modernities", Daedalus/ Journal of the American Academy of Arts and Sciences, 129 (1), 2000. Available at: https://www.jstor.org/stable/20027613 (accessed on 1 March 2026).

Sadik Kocabaş. "Mecelle-i Ahkâm-ı Adliye: Hazırlanışı, in Aktörleri ve İçeriği in Sosyal ve Beşerî Bilimlerde Araştırma ve Değerlendirmeler – III", Ankara: Gece Kitapligi, 2021, 57-68. Available at: https://www.researchgate.net/publication/357680668 (accessed on 12 March 2026).

Samuel P. Huntington. "The Clash of Civilizations and the Remaking of World Order", New York: Simon & Schuster, 1996, 96-97. ISBN 0-684-81164-2. Available at: https://msuweb.montclair.edu/~lebelp/1993SamuelPHuntingtonTheClashOfCivilizationsAndTheRemakingofWorldOrder.pdf (accessed on 10 March 2026).

Samy A. Ayoub. "The Ottoman Rationale for Codification: The Mecelle", in Law, Empire, and the Sultan, Ottoman Imperial Authority and Late Hanafi Jurisprudence, Oxford: Oxford University Press, 2019, 132. https://doi.org/10.1093/oso/9780190092924.003.0005

Selami Aykul. "Külli Kaideler Bağlamında Rekabet Hukukunun Temel İlkeleri", Kocaeli İlahiyat Dergisi 9/2, Aralık 2025, 362. https://doi.org/10.64270/kider.1789756

Şerif Mardin. "Türk Modernleşmesi", İstanbul: İletişim Yayınlan, 1991, 10. ISBN: 975-470-057-5. Available at: https://www.academia.edu/44707307/ŞERİF_MARDİN_T_Ü_R_K_M_O_D_ER_N_LEŞM_E_Sİ_Makaleler_4_İ_l_e_t_iş_i_m_Y_a_y_ın_la_n (accessed on 5 March 2026).

Shaw Stanford. "Between Old and New: The Ottoman Empire Under Sultan Selim III 1789-1807", Cambridge: Harvard University Press, 1971, 180. Available at: https://archive.org/details/isbn_674068300/page/n9/mode/2up (accessed on 10 March 2026).

Süleyman Tepe, Veysel K. Bilgiç. "Mecelle'nin Külli Kaideleri Bağlamında Örf ve Âdet Hukukunun İşlevleri." ASBÜ Hukuk Fakültesi Dergisi 6, 2, 2025, 1116. https://doi.org/10.47136/asbuhfd.1575198

TÜRK BORÇLAR KANUNU, Kanun No. 6098. Available at: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6098.pdf (accessed on 12 March 2026).

Türk Ceza Kanunu, Kanun Numarası: 5237. Available at: https://mevzuat.gov.tr/mevzuat?MevzuatNo=5237&MevzuatTur=1&MevzuatTertip=5 (accessed on 11 March 2026).

Türk Medeni Kanunu, Kanun Numarası: 4721. Available at: https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=4721&MevzuatTur=1&MevzuatTertip=5 (accessed on 12 March 2026).

Ulvu Rahimli. "Mejelle-i Ahkam-ı Adliyye from a Historical Perspective", Reconstructing the Past: Journal of Historical Studies, 3 (2), 2025, 6-7. Available at: https://jhs.wcu.edu.az/uploads/files/Ulvu%20Rahimli2%205.pdf (accessed on 12 March 2026).