INTELLECTUAL DEPENDENCY: LATE OTTOMAN INTELLECTUALS BETWEEN *FIQH* AND SOCIAL SCIENCE

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Abstract

Modernization led to the intellectual dependency of the Muslim world on the West for social theories. Human action (*'amal*) is the subject matter of both Islamic *fiqh* and Western social science (i.e. of all those sciences which attempt to apply empirical methods drawn from the natural sciences to the sphere of human society, including education and law). Though different in many aspects, both have a claim on widely overlapping intellectual territories. Social science in its different forms conquered the space traditionally occupied by *fiqh*, and its professional representatives (such as academicians, jurists, educationists, and writers) replaced the *fuqahā'*. This article thus points to a dialectic tension between *fiqh* and Western social science which shaped Muslim intellectual history since the 19th century. This article unearths this latent tension by using the example of late Ottoman intellectuals as Ziya Gökalp, Said Halim Pasha and İzmirli İsmail Hakkı. In the Ottoman case it brought about a new cleavage in the Muslim intellectual community between advocates of social science and advocates of *fiqh*. Yet many intellectuals and even some *fuqahā'* attempted a synthesis between both fields. After the collapse of the Ottoman Empire, the modern Turkish Republic adopted the policy of wholesale westernization, an element of which was the adoption of Western social science to replace *fiqh* in explaining and ordering human action. This intervention in the intellectual life increased the dependence of modern Turkish intellectuals on the state; which is another aspect of their intellectual dependency explored in this article.

The increasingly intensified encounter between Muslim and Western civilizations during the 19th century finally also led to an engagement of *fiqh* and European social science among Ottoman intellectuals. The

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subject matters of *fiqh* and social science are similar and overlapping as they both undertake the task of analyzing human action (Arabic *'amal*). More specifically, *fiqh* and social science provide answers, though in their own peculiar ways, to the problem of explaining or understanding and ordering it. They do so at the micro (individual) and the macro (group) levels. Yet the two intellectual traditions view human action under a different light and study it with different methods. Customarily, *fiqh* discourse was the major realm of traditional Muslim intellectuals, commonly known as *'ulamā'*, whereas the discourse of social science became an important part of the outlook of the typical Western public intellectuals.

Westernization of Muslim intellectual culture gave rise to an interesting encounter between these two discourses and discourse communities: Western social science challenged the space traditionally occupied by *fiqh* while academically trained bureaucrats, officers, medical doctors, engineers and professors tried to replace the *fuqahā'* in the name of the new sciences. Occupying a middle position, some intellectuals tried to synthesize *fiqh* and Western social science. This continued until the modern Turkish state outlawed *fiqh* and adopted Western scientific discourse as the official doctrine of the state and its schools and universities. The unexpected result was the intellectual dependency of Turkish society on Western social thought and sciences, on the one hand, and the state, on the other. Yet *fiqh* discourse and the discourse community which represented it have been more resilient than expected. Instead of fading away easily in front of the hegemonic modern social discourse and scientists, *fiqh* and *fuqahā'* have managed to survive and maintain their impact on Muslim societies.

Presently, neither social science (i.e. all those sciences which attempt to apply empirical methods drawn from the natural sciences to the sphere of human society, including education and law)[1] nor *fiqh* have the monopoly over academic and intellectual social discourse in the Muslim world. Consequently, today's Muslim intellectuals find themselves

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[1] I use 'social sciences' and 'social science' interchangeably. The place of Law poses a problem in the classification of sciences. This article follows the approach that considers Law, or more precisely the "science of law", a social science. On the concept of social sciences, see, Edwin R. A. Seligman, "What are the Social Sciences?", in Edwin R. A. Seligman (ed.), *Encyclopedia of Social Sciences* (New York: The Macmillan Company, 1937), 3-7.

between *fiqh* and social science discourses and, in my view, have to master both to be able to serve the social roles expected from them. The works of scholars who study late Ottoman thought demonstrate a vivid and diverse public debate on this epistemological encounter. Among them are Hilmi Ziya Ülken,[2] Ahmed Hamdi Tanpınar,[3] Tarık Zafer Tunaya,[4] Şerif Mardin,[5] Şükrü Hanioğlu[6] and Mümtaz'er Türköne.[7] These debates can be seen as revolving around the constantly unfolding and evolving tensions in the unending debates on the contested social-cultural mechanisms of Islamic and secular social study and norm making. Traditional Islamic mechanism of social study and norm making was contested during the late Ottoman Empire by modern secular social thought and sciences—the Western mechanism of norm making and justification. This clash divided the previously homogenous intellectual community into three groups: advocates of *fiqh*, advocates of Western social science and the advocates of a synthesis between them. This tripartite division introduced a new cleavage in Turkish social discourse and discourse communities.[8]

In this article, the major attempts to synthesize social sciences and *fiqh* will be explored. This paper aims to study the efforts of synthesis between two discourses before the triumph of Western social science at the official level and the survival of the stigmatized *fiqh* discourse in the broader society. It will trace this dialectic in modern Muslim intellectual history that has not been so obvious to other students

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[2] Hilmi Ziya Ülken, *Türkiye'de Çağdaş Düşünce Tarihi* (İstanbul: Ülken Yayınları, 1979).

[3] Ahmet Hamdi Tanpınar, *Türk Edebiyatı Tarihi: 19. Asır* (İstanbul: Çağlayan Kitabevi, 1956).

[4] Tarık Zafer Tunaya, *Türkiye'de Siyasal Partiler* (İstanbul: Hürriyet Vakfı Yayınları, 1988); İslamcılık Cereyanı, *İkinci Meşrutiyetin Siyasi Hayatı Boyunca Gelişmesi ve Bugüne Bıraktığı Meseleler* (İstanbul: Cumhuriyet Gazetesi, 1998).

[5] Şerif Mardin, *The Genesis of Young Ottoman Thought* (Princeton: Princeton University, 1962); *Jön Türklerin Siyasî Fikirleri: 1895-1908* (İstanbul: İletişim Yayınları, 1983).

[6] Şükrü Hanioğlu, *Bir Siyasal Düşünür Olarak Abdullah Cevdet ve Dönemi* (İstanbul: Üçdal Neşriyat, 1981); *The Young Turks in Opposition* (New York: Oxford University Press, 1995); *Preparation for a Revolution: The Young Turks, 1902-1908* (New York: Oxford University Press, 2001).

[7] Mümtazer Türköne, *Türkiye'de İslamcılığın Doğuşu* (İstanbul: İletişim yay., 1991).

[8] Recep Şentürk, "Fıkıh ve Sosyal Bilimler Arasında Son Dönem Osmanlı Aydını", in *İslam Araştırmaları Dergisi*, 2000 (4): 133-171; "Toward an Open Science and Society: Multiplex Relations in Language, Religion and Society", in *İslam Araştırmaları Dergisi*, 2001 (6): 93-129.

of modern Islam. I propose this dialectic as an alternative key for the modern history of Muslim thought. The approach I suggest may also serve as an alternative to prevailing views on the history of Muslim thought during the last two centuries as development, progress, modernization, and liberation.[9]

Fiqh embattled and modernized (1839-1924)

The writings of the Western thinkers began to appear in the Ottoman translations only after the end of the first half of the nineteenth century[10] prior to which, only high level *'ulamā',* bureaucrats and the Sultans had access to Western social ideas. The network of Ottoman intellectuals expanded quickly for the first time to include the products of their Western counterparts. They perceived Western social science as the *'ilm* of the *'ulamā'* of Europe. Subsequently, towards the end of the second half of the nineteenth century, social theories and theorizing emerged next to traditional *ijtihād, ḥukm* and *fatwā,* three major types of *fiqh* reasoning.

For the traditional *'ulamā'* class two types of knowledge can be roughly distinguished: *'ilm* (covering the religious disciplines, logic and philosophy as well as the philological disciplines, often including also

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[9] See for instance, Niyazi Berkes, *The Development of Secularism in Turkey* (New York: Routledge 1998); Binnaz Toprak, *Islam and Political Development in Turkey* (Leiden: E. J. Brill 1981).

[10] "In the field of literature and philosophy the *Tanẓīmāt,* as a whole, was an era during which translations into Turkish of Islamic literature reached unprecedented proportions. Any survey of the modernization of the Ottoman society which does not take into account this reaction falls short of an accurate description. No translations from European thinkers, philosophers, or *litterateurs* were undertaken in Turkey in the first half of the nineteenth century (Mardin, *The Genesis,* 203). Mardin's observation is also supported by Orhan Okay who states that only fifteen philosophical books had been translated from Western languages to Turkish from the time of *Tanẓīmāt* to the end of the 19th century. Seven of these books are by Voltaire while three of them are by Fenelon (see, Orhan Okay, "Batılılaşma Devri Fikir Hayatı Üzerine Bir Deneme", in Ekmeleddin İhsanoğlu (ed.), *Osmanlı Devleti ve Medeniyeti Tarihi* (İstanbul: IRCICA 1998), II, 205). Orhan Okay makes the same observation for translation about economics (See, Orhan Okay, "İktisatta Millî Düşünceye Doğru", in *Türk Kültürü* 18, no: 207-208 (Ocak—Şubat 1980): 72-98). The limited number of translations from Western languages raises the question how the pro-Western intellectuals were able to establish their links with Western thought. The increased familiarity with Western languages in some circle certainly played a role here.

medicine, astronomy, and other traditional science) and *'irfān* or *ma'rifa*, i.e. knowledge derived from mystical training. The specialist in *'ilm* was called *'ālim* while the specialist in *'irfān* was called Sufi or *'ārif*. Usually, prominent Ottoman scholars (*khawāṣṣ al-khawāṣṣ*) combined both types of knowledge as described by Taşköprüzāde in his well-known book, *Miftāḥ al-sa'āda*.[11] The institutional base of *'ilm* and *'ālim* was the *madrasa* while the *tekke*, i.e. the Sufi lodge, was the institutional base of *'irfān*. The *'ulamā'* were licensed after a formal education in the *madrasa* by their teachers with a traditional diploma known as *ijāza*, which qualified them to teach, to author books, to issue *fatwās* and to serve as a *qāḍī*.

The modern intellectual class can also be divided into two groups: one was the academic intelligencia trained in modern colleges, higher institutes and later universities at home and abroad, people who had become increasingly familiar with European languages, and exposed to European literature and science. The other were the home-grown "enlightened persons", commonly known in Ottoman Turkish as "*münevver*", in Modern Turkish as "*aydın*", i.e. writers and journalists whose professional base was the growing public sector of newspapers, journals and magazines. The institutional base of the academics was to become the modern university. The modern intellectuals often were free-lancers without any academic diploma.

Four types of discourse then can be said to have existed side by side in the nineteenth century within the Ottoman elites: *'ilm*, *'irfān*, modern science, and "enlightened" ideology. Four groups of intellectuals represented these genres: *'ālim*, *'arif*, academician and *münevver* (*aydın*). The rise of new genres and type of intellectuals reflected new cleavages and conflicts in the Ottoman discourse and discourse communities. Tensions rose between the two types of knowledge and their exponents. The eminent historian of Ottoman literature, Tanpınar, describes the intellectual landscape of the second half of the nineteenth century as follows: "In this period all intellectual tensions revolve around *fiqh* and Islamic law".[12]

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[11] Aḥmad b. Muṣṭafā Taşköprüzāde, *Miftāḥ al-Sa'āda wa- Miṣbāḥ al-Siyāda fī Mawḍū'āt al-'ulūm*, ed. Kāmil Kāmil Bākrī and Abd al-Wahhāb Abd al-Nūr (Cairo: Dār al-Kutub al-Ḥadītha, n.d.): I, 74.

[12] Tanpınar, *Türk Edebiyatı Tarihi*, 153.

One might expect that the *'ulamā'* rejected Western theories outright and a fierce intellectual conflict between the two groups began. In reality, however, there were *'ulamā'* who were more radical reformists than some of the new intellectuals and *vice versa*; there were intellectuals who were more traditionalist than some *'ulamā'*. The conservative intellectuals blamed the reformist *'ulamā'* for failing to defend Islamic values. These mixed orientations forestalled a clear-cut cleavage between *'ulamā'* and the new intellectual elite as well as the rise of an Ottoman enlightenment.

The welcoming attitude of the Muslim intellectuals and the *'ulamā'* towards the new social theories could in part be attributed to the concept of *'ilm* (knowledge and science) and its philosophical components *(ḥikma)*, and even to the early Islamic tradition, related from the Prophet Muḥammad, which encourage Muslims to accept knowledge from non-Muslims.[13] These religious injunctions were commonly used to justify importing Western sciences. It had been used even by those who were not pious Muslims, such as Abdullah Cevdet,[14] and Ahmet Rıza,[15] the two pioneering positivists among Young Turks. This attitude on the part of the *'ulamā'* and Muslim intellectuals helped them welcome social theories in spite of their Western source, and to attempt an accommodation within the life-world of *fiqh*.

We can also discern another factor behind the easy permeation of the world of *fiqh* by Western social and political theories in the connection commonly made between knowledge and survival, in the quest to "save the state" through defensive modernization.[16] It was

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[13] For the numerous Prophetic injunctions, *ḥadīths*, commonly cited by intellectuals during the nineteenth century in this context, see Mardin, *The Genesis*, 321f. For the support of the far-reaching reforms of the sultans Selīm III and Maḥmūd III by many *'ulamā'* see Uriel Heyd, "The Ottoman 'Ulemā and Westernization in the Time of Selīm III and Maḥmūd II", in A. Hourani, P. S. Khoury, M. C. Wilson (eds.), *The Modern Middle East: A Reader* (London, New York: Tauris Publishers, 1993), 29-59.

[14] Hanioğlu, *Abdullah Cevdet*, 129-132.

[15] Z. Fahri Fındıkoğlu, *Auguste Comte ve Ahmet Rıza* (İstanbul: Türkiye Harsi ve İçtimai Araştırmalar Derneği, 1962); Murtaza Korlaelçi, *Pozitivizmin Türkiye'ye Girişi ve İlk Etkileri* (İstanbul: İnsan Yayınları, 1986). The same strategy was adopted by Auguste Comte who presented a favourable view on Islam. See, Auguste Comte, *L'islamisme: au point de vue sociel*, ed. Christian Cherfils (Paris: Albert Messein Editeur, 1911).

[16] Mardin, *The Genesis*, 404 ; Robert E. Ward and Dankwart A. Rustow (eds.), *Political Modernization in Japan and Turkey* (Princeton: Princeton University Press, 1964), 8; Mümtaz'er

commonly accepted by all intellectual strands that the secret of triumphant European states was their sciences, without distinction between natural and social sciences, technology and institutions. Students of Ottoman modernization have paid attention to Ottoman attempts to import and use European technology and natural sciences. However, they almost completely neglected analogous attempts to introduce Western social theories and later social science into Ottoman society. And yet one of the main arguments that were continuously repeated by the Young Ottomans and the Young Turks was that European sciences and the institutions based on them were the source of Western strength and must be adopted by the Ottoman society for the survival of the state.

What these historians missed was that such a monumental intellectual endeavour to synthesize social and *fiqh* theories needed some theoretical and methodological groundwork. The possibility, the necessity, the legitimacy and the guidelines of such an astonishing project have not been discussed in depth in most studies of Young Ottomans and Young Turks. At the outset it should be said, these questions occupied little space in the minds of the reformists until they became puzzled by them towards the end of the World War I. Ottoman intellectuals worked in an atmosphere completely unfavourable for "intellectualism," and, searched for the most practical solutions to save the state, a concern unfamiliar to the majority of their Western counterparts.[17] They could no longer ignore these fundamental theoretical and methodological questions about their way of thinking.

Calls emerged for free *ijtihād*, also the name of the magazine of the radical reformist Abdullah Cevdet,[18] to help the inner modernization of Ottoman social thought. The theories of this era had still been dominated mostly by *fiqh* language and followed the principles of *fiqh* theorizing, *uṣūl al-fiqh*, at least in order to gain the acceptance of their audience. However, the tension between *fiqh* and social scientific theorizing is evident in various degrees and ways in the writings of Young Ottomans and Young Turks, for whom the gate of *ijtihād* was closed but the gate of free theorizing was wide open. The debate over

Türköne, *Türkiye'de İslamcılığın Doğuşu*, 24-32, 271-282.

[17] Şerif Mardin, *Jön Türklerin Siyasi Fikirleri: 1895-1908* (İstanbul: İletişim Yayınları, 1992), 7-19.

[18] For this magazine, see, Nazım H. Polat, "İctihad", *DİA* 21, 446ff.

the gate of *ijtihād* remained one of the most controversial issues until the building of *fiqh* was destroyed completely from its foundations. A quick look at the literature of the time, such as *İslām Mecmūʿası, Sırāṭ-ı Müstakīm* and *Sebīlü r-reşād*, demonstrates how the cleavage about *ijtihād* divided late Ottoman intellectuals into two camps.[19]

The real tension was between *fiqh* and the demands of the rapidly modernizing bureaucracy. The growing bureaucracy both in size and power conflicted with the constraining principles of *fiqh* and the structure of Ottoman intellectual life:

> In the eighteenth century it became an established practice to seek the *shaikhulislâm's* opinion on every governmental matter of importance. The limitations so imposed on the government by the *sharīʿa* and by religious authority in the period of decline made the application of reforms especially difficult. The all-embracing *sharīʿa* became the stronghold of traditionalism in Ottoman government and society.[20]

Fiqh could easily be used to delegitimize the efforts of the central government and bureaucracy in the Sublime Porte *(Bāb-ı ʿĀlī)* to gain more power and efficiency—a strategy also followed by the late 19th century opposition movements, including Young Ottomans and Young Turks. The expanding and centralizing government had to deal with the obstacle of *fiqh* by carefully avoiding an open conflict. The Millet System, for instance, was abolished allegedly to revive the rule of *sharīʿa*, claimed the *Tanzīmāt Fermāni* which assured the Muslims that the reforms would be carried out according to religious rules. The *ʿulamāʾ*, especially the office of Sheikhü l-islām, had to defend the integrity of the institution of *fatwā*. The protest against the continuously centralizing and expanding Ottoman bureaucracy attached to the Sublime Porte also relied heavily on *fiqh* for social mobilization.[21] The Young Ottomans and the Young Turks recruited the majority of their members mostly

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[19] For a summary of the views on the debates among Muslim jurists on *ijtihād* by a Turkish scholar who advocates *ijtihād*, see Hayrettin Karaman, *İslam Hukukunda İctihad* (Ankara: Diyanet İşleri Başkanlığı, 1975). For the views of the last Ottoman Sheykhulislam who opposed *ijtihād* as a potentially distorting reform effort in religion, see Mustafa Sabri Efendi, *Dini Müceddidler* (İstanbul: Sebil Yayınevi, 1969).

[20] Halil İnalcık, "Turkey", in Robert E. Ward and Dankwart A. Rustow (eds.), *Political Modernization in Japan and Turkey*, 44.

[21] Hanioğlu, *Abdullah Cevdet*, 141ff.; Mardin, *The Genesis*, 81-106; Türköne, *Türkiye'de İslamcılığın Doğuşu*, 93-143, İsmail Kara, *İslamcılara Göre Meşrutiyet İdaresi*, unpublished Ph.D. Dissertation (İstanbul Üniversitesi, 1993).

from the ranks of the *'ulamā'*, the *a'yān*, "a rising semi-feudal landed aristocracy in the provinces",[22] middle level bureaucrats and army officers who lost status and power in the course of bureaucratic and political modernization.[23] *Fiqh* along with social theories thus became the prominent idiom in the late nineteenth century Ottoman discourse and informed, if not completely shaped, the arguments of opposing political and intellectual strands.

The intellectuals, whose discourse I will study below, were neither traditionalists nor radical revolutionaries, but reformists who were instrumental in the cultural construction of liberal social and political institutions in Islamic terms. They were modernizers in the sense that they advocated the adoption of modern liberal institutions. They were, nevertheless, conservatives in the sense that they used an Islamic language derived mostly from *fiqh* to materialize their ideals, because *fiqh* was a very effective intellectual tool to achieve an ideological goal in the Ottoman society. The institutions and concepts they stood for were originally born in Europe, conceptualized and defended with social theories of the 18th and the 19th century European liberal thinkers. This strategy, despite keeping them from advocating a pure secular ideology, helped them gain public sympathy for European institutions and concepts—which worked as an important contribution towards modernization.

From this analytical perspective, we can understand why students of Ottoman history of ideas find the origins of both Islamists and modernists in the Young Ottomans and the Young Turks, and why contemporary advocates of Islamism and secularism in Turkey trace their origins back to them. Young Ottomans are, for İnalcık, "the real forerunners of the nationalist and democratic movement in Turkey,[24]" for Mardin, they are conservatives,[25] for Türköne they are the forerunners of Islamism.[26] Namık Kemal, for instance, had been praised by secular ideologists of the Turkish Republic as their father until they were reminded by a

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[22] İnalcık, "Turkey", 45.
[23] Mardin, *The Genesis*, 78ff., 397.
[24] İnalcık, "Turkey", 62.
[25] Mardin, *The Genesis*, 401.
[26] Türköne, *Türkiye'de İslamcılığın Doğuşu*, 77-87.

study based on Kemal's own writings[27] that he was an Islamic thinker.[28] Ali Suavi, another example, is a zealot for some, for others the first *laique* Muslim scholar. Ziya Gökalp, normally labelled as the father of Turkish nationalism, was also seen by some as an Islamic revivalist, *mujtahid* or *mujaddid*. Incomplete and partial readings of their ideas mislead researchers to ascribe very divergent and sometimes opposite identities to Young Ottomans and Young Turks.

This analytical perspective also explains why these two key movements of modern Ottoman and Turkish history do not completely fit into the classifications projected onto them. In the absence of a thorough assessment of the intellectual sources of their ideas and why and how these ideas were brought together to constitute a synthesized system, one cannot do justice to their intellectual role and identity.[29]

For the same reasons, the opposition which the Young Ottomans and the Young Turks faced from the radical reformists and traditionalists should not be treated separately as conflicting strands. Instead, they should be analyzed as reactions to mainstream attempts of synthesis. One should thus avoid drawing such clearly distinguished intellectual fronts as the current literature describes. With the purpose of demonstrating the divergent social origins of intellectuals whose work is considered here, I chose below different figures with various social backgrounds: an *'ālim* from the *'ulamā'* order; a bureaucrat from the Sublime Port; a prince from the Ottoman dynasty, and thinkers independent of these established groups. As we will see below, Ahmed Cevdet Pasha, Ali Suavi, İsmail Hakkı, and Seyyid Bey were affiliated with the *'ulamā'* order. Namık Kemal and Ziya Pasha initially belonged to the bureaucracy of the Sublime Porte. Said Halim was an Egyptian prince with kinship ties to the Ottoman dynasty; he also served as a Grand-Vizier. Ziya Gökalp, who came from a humble social origin in East Anatolia, and

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[27] İhsan Sungu, "Tanzimat ve Yeni Osmanlılar", in *Tanzimat I* (İstanbul: Maarif Matbaası, 1940): 777-857.

[28] Mardin, *The Genesis*, 287.

[29] Bernard Lewis, *The Emergence of Modern Turkey* (London: Oxford University Press, 1968), 226f.; Carter Vaughn Findley, *Bureaucratic Reform in the Ottoman Empire: the Sublime Porte 1789-1922* (Princeton: Princeton University, 1980); *Ottoman Civil Officialdom: a Social History* (Princeton: Princeton University, 1989), 174-210; Mardin, *The Genesis*, 120-132, 141f.

had a strong Islamic education in his youth, is usually considered an outsider to these social groups.

Early Reforms and Cevdet Pasha: From *fiqh* to Islamic Law

Traditionally *fiqh* had—with few exceptions—not been codified and enacted neither in the Islamic states nor in the Ottoman Empire. This changed during the nineteenth century as *fiqh* came to be seen as "Islamic law" amenable to codification and enactment by the state. It meant the expansion of state control in the domain of law that used to be under the control of *'ulamā'*. This section will shed some light on the historical process through which *fiqh* was transformed into Islamic law under Western influence. Calling *fiqh* "Islamic law"— which we take for granted today—is a recent phenomenon dating back to the 19th century. The term "Islamic law" first emerged in Europe in the works of Orientalists. Later the usage was adopted by Muslim intellectuals and scholars without sufficient scrutiny. Conventionally, Muslim intellectuals still equate *fiqh* with "Islamic law", event though it is evident that *fiqh* is more than Islamic law in content, methods, and the domain of application.

The response of the *'ulamā'* to the pro-Western *Tanzīmāt* bureaucrats was to codify the relevant parts of *fiqh* in a form similar to the modern codes of Europe. A Western form was synthesized with Islamic content.[30] Yet there was no public intellectual debate, according to our present day research, about why such a project was necessary and in what ways it was going to contribute to the modernization of the country as well as its short and long term social implications.[31] Nor were the

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[30] Ülken, *Türkiye'de Çağdaş Düşünce Tarihi*, 72.

[31] According to some observers, the reformist bureaucrats were not concerned with providing accounts to the public about their policies. Mardin makes this observation for the *Tanzīmāt* period (Mardin, *The Genesis*, 121), Lewis for the Young Turk era (Lewis, *The Emergence of Modern Turkey*, 227), and Parla for the Republican era (Taha Parla, *Ziya Gökalp, Kemalizm ve Türkiye'de Korporatizm*, İstanbul: İletişim Yayınları, 1993, 209. There is a strong tradition, however, to write reformist memoranda and accounts of diplomatic travels by high-ranking diplomats. Cf. Aḥmed Resmī!) The origins of this attitude must be sought for in the Turkish statesman tradition, who, instead of trying to publicly legitimize their actions, looked for the *'ulamā'* to provide public legitimacy deriving from *fiqh*, especially through

theoretical and methodological questions underlying such a fundamental change and synthesis voiced by the carriers of this project. Classical *'ulamā'* resisted earlier attempts to codify *fiqh* as a positive law on various theoretical and practical considerations.[32]

Yet, according to presently available historical research, *fuqahā'* remained mostly silent at this time. This is particularly true for the members of the *Meclis-i Aḥkâm-ı 'Adliyye*, which is commonly known as the *Mecelle* commission. Neither Ahmed Cevdet Pasha, a prolific author himself, nor the other highly learned members of the committee he headed, left any account dealing in depth with the theoretical and methodological problems they faced and the guidelines they followed to solve them. However, simply by looking at the history of the emergence of the *Mecelle,* we can surely say that to create a modern Islamic law out of the traditional structure of *fiqh* was not an easy task. Nor do we know to what extent traditional opposition to such a transformation contributed to the decision of 'Abdu l-Ḥamīd II in putting an end to the *Mecelle* work. Ali Suavi briefly dealt with the methodological problems of modernizing Islamic law in an article.[33] However, we need to wait for Ziya Gökalp to turn the issue into a public debate.

Cevdet Pasha's work is an important turning point which illustrates best the response of *fiqh* to *Tanzīmāt.* The *Mecelle* commission, headed by Cevdet Pasha, codified certain parts of *fiqh,* which was authorized by the Caliph, as the first standard collection of Islamic law to be applied all over the Ottoman lands. The *Mecelle* could not completely curtail the penetration of Western law in Ottoman society; it was, nevertheless, an important compromise to the demand of a growing bureaucracy

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fatāwā. None of the sultans, to my knowledge, left memoirs, diaries, or autobiographies. This is surprising especially for those who were highly talented in the literary arts such as poetry and bequeathed collections of poems about love. Unlike Ottoman sultans, Atatürk left us an account about his policies with his famous *Speech,* in Turkish known as *Nutuk,* which could be analyzed in the context of changing patterns of public search for legitimacy, as well as changing self-perception of the new Turkish statesmen. The poetry tradition of the Ottoman statesmen served as a means of public expression which disappeared in the Turkish Republic. *The Speech* may be seen as an attempt for public self-justification.

[32] It is well-known that Abū Ḥanīfa, Mālik, Shāfiʿī and Ibn Ḥanbal, the founders of the four Sunni schools of law, distanced themselves from the state. The Shiite jurists, or *imāms,* had experienced even a greater tension with the state.

[33] Türköne, *Türkiye'de İslamcılığın Doğuşu,* 283-289; also, Sami Erdem, "Ali Suâvi'nin Usūl-i Fıkh'a Dair Bir Risalesi", in *Divan* 2 (1998): 283-296.

for a standard law and for a fundamental change in the structure of Islamic legal system. The bureaucrats saw that modern state structure was incompatible with the legal pluralism of the Ottoman Millet System. From their perspective, codification and enactment of Islamic law were essential for the proper functioning of a modern bureaucracy. The *'ulamā'* apparently also found their arguments convincing.

In this process Ahmed Cevdet Pasha played the most significant role. His writings, especially his *Tezâkir*,[34] provided a wealthy source for students of late 19th century Ottoman intellectual history. Of all his intellectual products, *Mecelle* stands out as a sociologically important document, owing to the fact that it served as the Civil Law of the Ottoman society and the succeeding nation states for a considerable time. I will briefly analyze the prologue of the *Mecelle,* which consists of a hundred fundamental principles of *fiqh* and lays the theoretical ground for the subsequent laws. The *fuqahā'* call these legal maxims "universal principles" (*kulliyyyāt*) of *fiqh*. Apart from this, its significance for our interest in this paper comes from the fact that these fundamental principles concisely reflect the official understanding of *fiqh* in the late Ottoman State. Ahmed Cevdet Pasha, along with other members of the *Mecelle* commission, drawing from the works of such scholars as Ibn Nujaym[35] and Khādimī,[36] codified the basic general rules of *fiqh*. These maxims had officially been adopted by the state through an imperial decree. A body of literature, most importantly several voluminous exegesis analyzing its historical roots in classical *fiqh* literature as well as

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[34] See Ahmet Cevdet Paşa, *Tezâkir* (Ankara: Türk Tarih Kurumu, 1986).

[35] Zeynüddin Zeyn b. Ibrāhim b. Muḥammed Mısrī Ḥanefī Ibn Nujaym (970/1563), *al-Ashbāh wa an-Naẓā'ir*, ed. Muḥammed Mutiʿ Ḥāfiẓ (Dımashq: Dār al-Fikr, 1983/1403). See for a commentary on it, Ebu al-Abbās Shaḥabaddin Aḥmad b. Muḥammad Ḥamawī (1098/1687), *Ghamz ʿUyūn al-Baṣā'ir: Sharḥ Kītāb al-Ashbāh wa an-Naẓā'ir* (Beirut: Dār al-Kutub al-ʿIlmiyye, 1985/1405).

[36] For his most well-known Islamic law manual see, Abū Saʿīd Muḥammad b. Mustafa b. Uthmān al-Khādimī (Turk. Hadimi), *Majāmiʿ al-Ḥaqā'iq*. For a commentary on it by the author see, *Manāfiʿ al-Daqā'iq Sharḥ Majāmiʿ al-Ḥaqā'iq*. These books have many editions. There is also a translation into Turkish by the son of the author, Abdullah b. Muḥammad b. Mustafa Ḥanafī al-Khādimī, (1192/1778), *Uṣūl-i Fıḳıhdan Ḥāşiyeli Majāmiʿ al-Ḥaqā'iq* (Istanbul: Maḥmūd Bey Maṭbaʿası 1318/1899). It is one of the most popular Islamic Jurisprudence manual during this period. It also served as an important source of inspiration for the *Mecelle*. For a modern study on Khādimī, see Yaşar Sarıkaya, *Abū Saʿīd Muḥammad al-Ḥādimī (1701-1762): Netzwerke, Karriere und Einfluss eines Osmanischen Provinzgelehrten* (Hamburg: Verlag Dr. Kovac, 2005).

present day applications, has grown around *Mecelle* in various languages since its first appearance.[37]

The first article defines its subject matter and sources. It also briefly outlines the concept of society on which *fiqh* is founded.:

The knowledge of the Ordinances of the Sacred Laws is termed the Science of Jurisprudence ['ilm-i fiqh]. The Sacred Ordinances refer either to Future, or the Present Life. The Ordinances which refer to the Future Life constitute the Part of the Sacred Law which constitutes Worship. But the Ordinances which relate to the Present Life are divided into Three Heads; that concerning Marriage, that concerning Contracts, and that concerning Punishments.[38]

The concept of mankind and society that lay at the base of this codification of *fiqh* is briefly summarized in a paragraph as follows:

God having found the World in the order in which it is, determined that it should be kept in the order in which it is, until its end, by the perpetuation of the Human Race. And this perpetuation is fulfilled by the conjunction of man and woman in the union of marriage for the purpose of procreating children, and by this means the continuation and uninterrupted existence of the human race is maintained. But men, by reason of their natural constitution, have need for their maintenance certain things of art, such as food, clothing, and dwellings, and they obtain these things by mutual community and by mutual help. In other words, men by nature are made for a community, being unable to live as other animals do alone, but they need a social state. In other words, they are compelled in community and to help one another. Since, however, every individual desires easy and pleasant things for himself and shuns painful and displeasing things, men so far as regards marriage and their relations to one another and mutual help, these bases of community and of social life, need certain weighty ordinances for the preservation of justice and order between them.[39]

The *Mecelle*'s approach acknowledges the importance of social change and reflects the traditional *fuqahā's* attitude towards such change. For *'ulamā'* social change is acceptable unless it contradicts the general Islamic

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[37] For a contemporary English edition of the *Mecelle* based on the 1895 Ottoman trans-lation, see, Tr. C. R. Tyser, B. A. L., D. G. Demetriades, Ismail Haqqi Effendi, *The Mejelle Being an English Translation of Majallah el-Ahkam-i Adliya and a Complete Code of Islamic Civil Law* (Kuala Lumpur: The Other Press 2001). For Turkish commentaries on the *Mecelle* see: Emīn Efendi-zāde Küçük 'Alī Ḥaydar Efendi, *Dürerü l-Ḥükkām Şerḥu Mecelleti l-Aḥkām* (İstanbul: Maṭbaʿa-i Ebū ż-Żiyā, 1912), ʿAbdü s-Settār, *Mecelle Şerḥi Teşrīḥ* (İstanbul: Mihrān Maṭbaʿası, 1879), Meḥmed Żiyā ed-dīn. *Mecelle-i Aḥkām-ı ʿAdliyye Şerḥi* (İstanbul: Kasbar Maṭbaʿası, 1894).

[38] *The Mecelle*, Article no: 1.

[39] The *Mecelle*, 1f.

norms, which, as we know, do not deal with details, leaving room for the *'ulamā'* to decide about particular changes. From this perspective, absence of change is preferable but change cannot be denied. If and when it occurs *fuqahā'* decide whether it is good or bad. If it is deemed to be good, then, norms and laws are modified accordingly, otherwise it will be forbidden. This attitude is more concerned with controlling the direction of the change rather than initiating or perpetuating it. The *'ulamā'* assigned to themselves the role of the referee but not the player, which could also be observable in the institution of *fatwā*, which are issued only when asked for.

The *Mecelle* makes it explicit in numerous articles that the undeniable impact of changing culture and customs on law is acknowledged by *fuqahā'* unless it contradicts the permanent principles of Islamic law. "Custom is law," states article thirty-six, "*i.e.* a judicial decision is based on custom and usage, whether general or particular." Article fifty-eight states, "*Re'āya* (*i.e.* subjects) are ruled in accordance with their wants and habits." Article forty states, "The proper sense of a word is abandoned under the guidance of custom." These articles shed light on the status of customary law (*ḳanūn*) in the Ottoman State[40] and, the place of *'urf*, which can be imprecisely translated as culture, in *fiqh* as practiced by the Ottomans.

Cevdet Pasha's contribution to the inner modernization of the Islamic sciences was not limited to the codification of Islamic civil law. He also participated in the revival of Islamic sciences through his translations and other books on a wide range of topics. He publicized Ibn Khaldūn after completing the translation of his *Muqaddima* to Turkish.[41] Turning to Ibn Khaldūn and trying to revive his tradition at this point of history during which Western social theories started entering Ottoman intellectual landscape is significant. Apart from his major Ottoman History, Cevdet Pasha also authored books on logic, etiquette of debate and Turkish grammar.[42]

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[40] Halil İnalcık, *The Ottoman Empire: Classical Age 1300-1600* (London: Weidenfeld and Nicolson, 1973), 1-13, 70-76.

[41] Pīrī-zāde initiated the translation of the *Muqaddima* before Cevdet Pasha. See Pīrī-zāde Meḥmed Ṣāḥib Efendi, *Muḳaddime-i İbn-i Khaldūn Tercümesi* (İstanbul: Taḳvīmkhāne-yi 'Āmire, 1275/1858).

[42] Ahmed Cevdet Paşa (1312/1895), *Mi'yār-ı Sedād* (İstanbul: Karabet ve Kasbar Maṭ-

Cevdet Pasha was an eclectic revivalist. He headed the *Mecelle* commission, on the one hand, and defended the establishment of courts specialized on commerce operating with Western laws, on the other, which clearly shows his pragmatic thinking. He had to deal with the opposition of the advocates of complete and drastic westernization such as Midhat Pasha and Ali Pasha in the first instance, and, on the other hand, with the opposition of the Sheikhü l-islām and other traditionalist *'ulamā'*.

The attempts to transform *fiqh* into a modern code as well as adopting Western laws were indeed consequential for the *'ulamā'* order. Cevdet Pasha worked for both. These consequences were observable in the changes in the legal system and the education of jurists, which was gradually taken away from the hands of the *'ulamā'*.

Cevdet Pasha's thought and political role is significant for our purposes here because he stands at the origin of the political and intellectual network extending through generations until Seyyid Bey, including Namık Kemal and Ziya Gökalp. This line is reflected by the similarities in their political and intellectual careers: (1) they maintained the strategy of synthesis to reconcile the tensions, both political and intellectual, caused by the encounter of *fiqh* and modern social sciences. (2) They were instrumental in grounding modern institutions on Islamic conceptual foundations. Political modernization, which was carried out by the central bureaucracy, required institutional reforms. The *'ulamā'* did not oppose the reconstruction of these institutions, and the introduction of new ones to Ottoman society as long as they were Islamically grounded. They opposed secularization, perhaps, because they knew that a secular cultural framework would bring about the end of their intellectual role. (3) *Fiqh* remained a means of opposition against the expanding power of state bureaucracy and cultural reconstruction in the hands of these reformist intellectuals. (4) The very changes and institutions they worked for and constructed, ironically, prepared their end by undermining their conceptual and institutional bases. After the

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ba'ası, 1303); *Adab-ı Sedād min 'İlmi l-Adab* (İstanbul: Maṭba'a-yi 'Āmire, 1294). For the new editions, in modern Turkish, of these two books and other logic books from the same period, see Kudret Büyükcoşkun (ed.), *Mantık Metinleri* (İstanbul: İşaret Yayınları 1998). See about his Ottoman History also Christoph Neumann, *Das indirekte Argument. Eïn Plädoyer für die Tanzîmât. Die geschichtliche Bedeutung von Aḥmed Cevdet Paşas Ta'rīḫ* (LIT-Verlag: Münster, 1994).

generation of *Tanzīmāt* intellectuals, these common characteristics were maintained across two subsequent generations: Young Ottomans, and Young Turks, most of whom were the members of the Committee of Union and Progress (CUP).

The Young Ottomans and their Synthesis of *fiqh* and Western Social Theories: Tool of Opposition and Reconstruction

Regarding Young Ottoman thought, the leading historian of Turkish literature, Tanpınar says: "These authors [Young Ottomans] not only searched in the Qur'an and in the early periods of Islamic history for the roots of the parliament, which is Western in origin and history, and also came to the Ottoman society from the west, but also show *fiqh* as inexhaustible and not a negligible source for new institutions".[43] Subsequent studies on the Young Ottomans, whether they focused on the movement in general or on the individual figures, supported this observation. Drawing on this body of literature, I will briefly demonstrate how Young Ottomans depended on *fiqh* in their intellectual and political careers.

"Following the example of Cevdet Pasha", who defended *fiqh* in the *Tanzīmāt* era against those who called for its replacement with the adopted European laws, writes Tanpınar, "Namık Kemal and Ali Suavi, defended *fiqh* and Islamic law in the state institutions, and …were led to the idea of pan-Islamism".[44] This assertion was further explored by subsequent studies on the works of leading Young Ottomans such as Namık Kemal, Ziya Pasha, and Ali Suavi.[45] The findings changed the image of Young Ottomans and later also the Young Turks in Turkey from being the forerunners of secularism to being the forerunners of Islamic revivalism as a modern ideology.[46]

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[43] Tanpınar, *Türk Edebiyatı Tarihi*, 153.

[44] *Ibid.*

[45] Mardin, *The Genesis*; Türköne, *Türkiye'de İslamcılığın Doğuşu*.

[46] The article Sungu contributed to the volume on *Tanzimat I* in 1940 seems to have sparked this process.

Findley and Mardin drew attention to the emergence of this new class with a different identity, role, and means of communication.[47] The Young Ottoman intellectuals introduced new social roles, such as novelist and journalist, and used new genres and communication techniques such as newspapers and magazines. Among their publications were newspapers, magazines, plays, all foreign to the traditional Ottoman intellectual world. These intellectuals criticized both the *'ulamā'* because of their impotence and passivity, and the pro-Western bureaucrats because of their wholesale and drastic modernism. The latter group was criticized for not appreciating the importance of cultural symbols and other traits, which, for the Young Ottomans, had greatly contributed to the survival of the Empire.

Consequently, the Young Ottoman project was to revive *fiqh* as the foundation of social, legal and political thought but not to adopt Western social theories at face value. For instance, Namık Kemal, "who thought of the political ideas of the Islamic jurists as basically valid for his own time",[48] and who had the most enduring impact among his contemporaries on subsequent Turkish intellectual development, was, as far as intellectual tools he chose to use, a "conservative." "He was violently opposed to the movement for the secularization of law which had started with *Tanzīmāt*".[49] He defended *fiqh*, especially as Islamic law, and drew freely from its materials.[50] He did not believe law could be based on ethics. For, according to him, "the science of what is just and what is unjust" was based on religion; it was the Şeriat", which he even tried to reconcile with Montesquieu's concept of law as "the relations stemming from the natural order of things".[51]

In addition to his connections to Muslim scholars and thinkers, Kemal expanded his intellectual network towards European thinkers and matched their concepts with those derived from the language of *fiqh*. Among European origins of Kemal's ideas are Plato, Aristotle, Zeno, Cicero,

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[47] Findley, *Bureaucratic Reform in the Ottoman Empire*; *Ottoman Civil Officialdom*; Mardin, *The Genesis*, 124.

[48] Mardin, *The Genesis*, 405; Türköne, *Türkiye'de İslamcılığın Doğuşu*, 127-143. Young Ottomans defended Islamic law against critics and usually compared it with the natural law in the West. They also advocated deriving the constitution from the *sharī'a*.

[49] Mardin, *The Genesis*, 315.

[50] Türköne, *Türkiye'de İslamcılığın Doğuşu*, 127-144.

[51] Mardin, *The Genesis*, 314, 316, 318.

Descartes, Bacon, Rousseau, Voltaire, Condorcet, Turgot, Robespierre, Danton, Garibaldi, Silvio Pellico, Montesquieu, Locke, Volney, and Emille Acollas, his private tutor in France.[52] *Fiqh* terminology helped Kemal in finding Islamic and Turkish counterparts for the concepts he came across in the social theories of the European thinkers. For instance, Kemal met representative government with *meşveret* (*Arabic shūrā*); natural law with *sharīʿa*; and social contract with *bayʿa*.

Kemal's attempt to match European social concepts with those of *fiqh* cannot be seen only as a matter of translation but also as a strategy of cultural reconstruction of these concepts and institutions. It is crucial to note at this point that *fiqh* terms, after being used as translations of European social theories, lost their original meaning. For instance, the term *millet* (in Arabic *milla*), which originally meant religion and religious community, went trough a semantic shift to signify "nation." The change in the content of *fiqh* terminology and the ensuing complications brought about "the great philosophical difficulties in which Kemal had involved himself by attempting to conciliate Montesquieu with Şeriat".[53]

Another prominent Young Ottoman thinker was Ali Suavi. He was a revolutionary *ʿālim* who combined political and intellectual activism in his life. Like other Young Ottomans, he also called *fiqh* to the defence of liberties against the growing state in his time. "The only step that was necessary, according to Suavi, to keep up with the pace of modern social and economic life, was to prepare "an excellent book of *fikh* ['Islamic law'] in a language that everyone would understand".[54] At the same time, he criticized the malpractices of the *sharīʿa* and the *ʿulamāʾ* order. He appears, in his writings, as the advocate of lower classes who were, in his view, oppressed by the government under the name of *sharīʿa*. "In letters sent to the newspapers of the capital he condoned ʿAbdu l-Ḥamīd's action, attacked Midhat, expressed once

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[52] *Ibid.*, 332-336.

[53] *Ibid.*, 319.

[54] *Ibid.*, 370. Ali Suavi's views on how to reform Islamic law can be found in a piece he wrote in *Ulûm Gazetesi*, no: 18 (1870), 1065-1082. This article can be found in modern Turkish script, see Türköne, *Türkiye'de İslamcılığın Doğuşu*, 283-289. On Suavi and his life and views see especially Mardin, *The Genesis*, 360-384; Hüseyin Çelik, *Ali Suavî ve Dönemi* (İstanbul: İletişim Yayınevi, 1994).

more his belief that liberty was something of which the people should profit, not just ministers like Midhat".[55] In a statement reminiscent of Kınalızâde[56], he presented a hierarchical image of society which was centered on the *sharī'a*: "the *ümerā'* (rulers) rule over the people and the *'ulamā'* rule over *ümerā'* and *sharī'a* rules over the *'ulamā'*".[57]

Suavi was not only critical of the bureaucrats but also of the *'ulamā'*, whom he called "dead". He had to admit that their quality had deteriorated considerably and that he could not seek their advice. He maintained, however, that the *'ulamā'* had deteriorated because the new Ottoman bureaucracy had pushed them into the background.[58] Suavi was an admirer of Frederic Le Play, one of the early French social engineers, because of his conviction that social problems arose when religious faith was lost.[59] From this perspective, the lack of religious faith was the cause of social decay. This view was diametrically opposed to the positivist view that religion was an obstacle to progress and would disappear with the progress of science.

The Young Ottoman ideals had materialized by the First Constitutional Revolution in 1876. The Islamically constructed parliament and constitution as well as other liberal institutions and concepts found life in the Ottoman society under Caliph Sultan 'Abdu l-Ḥamīd II, whose antagonism with liberal modernism soon became evident. Their intellectual legacy was recognized and later claimed, completely or in part, even in the secular Turkish Republic, by various segments of Turkish politicians and intellectuals. Nevertheless, the Young Ottomans did not deal extensively with the theoretical and methodological foundations of their intellectual attempts to synthesize *fiqh* and European social theories. These were to be dealt with extensively by the Young Turks who followed them. The Young Ottomans had used *fiqh* mainly as a tool of opposition and cultural reconstruction.

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[55] Mardin, *The Genesis*, 364.
[56] Ḳınalı-zâde 'Alī Efendi (979/1572), *Aḫlāḳ-ı 'Alā'ī* (Būlāq: Maṭba'at al-Būlāq, 1248/1832).
[57] Quoted in Mardin, *The Genesis*, 368.
[58] *Ibid.*, 374.
[59] *Ibid.*, 383.

The Young Turks and their Synthesis of *fiqh* and Social Science: A Disrupted Debate on Theory and Methodology

Namık Kemal remained without a competitor until Ziya Gökalp emerged as the official mentor and ideologist of the Young Turks, especially the CUP with a "more or less coherent system of thought".[60] Similar to their predecessors, the Young Turks maintained the tradition of synthesis. Nevertheless, the prestige of Western social theories was growing at the expense of *fiqh*. "A common feature of all these schools [of thought during the CUP era] is their tendency to treat sociology as a kind of philosophy, even of religion, and as a source of quasi-revealed authority on moral, social, political, and even religious problems".[61] Lewis observes that "The Young Turks seem to have been less concerned with political theory than their nineteenth-century predecessors".[62] This observation is significant because it illustrates the decreasing social status of the intellectual class in general.

In the literature of this period, European theories once again provide the theoretical foundations of political and social criticism. The main source of these foreign intellectual influences is still France, but instead of the Enlightenment of the eighteenth century, the social science of the nineteenth century dominated the thinking of Turkish reformers and revolutionaries. The first influence to emerge was that of Auguste Comte, whose positivist sociology inspired Ahmed Rıza in the first expositions of CUP, and profoundly influenced the subsequent development of secularist radicalism in Turkey. Prince Sabahaddin, seeking a philosophy for his own rival school, found it in the teachings of Le Play and Demolins, whose ideas formed the basis of his doctrines of individual initiative and decentralization. Finally, it was in sociology, especially that of Emile Durkheim, that Ziya Gökalp found the conceptual framework

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[60] *Ibid.*, 286. For Ziya Gökalp (d. 1924), see, Uriel Heyd, *Foundations of Turkish Nationalism: the Life and Teachings of Ziya Gökalp* (London: Luzac 1950); Ziya Gökalp, *Turkish Nationalism and Western Civilization*, trans. Niyazi Berkes (London: George Allen and Unwin, 1959); Ziya Gökalp, *The Principles of Turkism*, trans. Robert Devereux (Leiden: E. J. Brill, 1968); M. Orhan Okay, Süleyman Hayri Bolay, Suat Anar, "Gökalp, Ziya", *DİA* 14, 124-137.

[61] Lewis, *The Emergence of Modern Turkey*, 227.

[62] *Ibid.*

within which he constructed the first elaborate theoretical formulation of Turkish nationalism.[63]

In line with synthesizing intellectuals from *Tanzīmāt* generation, Gökalp's effort was the last attempt to reconcile the tensions between cultural and political modernization and *fiqh*. Gökalp's deep-rooted interests in *fiqh* and his project to combine it with modern sociology have been less studied compared to his theoretical foundation of Turkism and even on Islamic mysticism (*taṣawwuf*).[64] His solution to the conflict between *fiqh* and sociology was "*ijtimā'ī uṣūl-i fiqh*" which can be translated as "Societal *Uṣūl* al-*Fiqh*".[65] Gökalp's theory is significant because it deviates from the tradition of defending *fiqh* only as Islamic law, and his recognition of the role of *fiqh* as the traditional Islamic societal science. This societal science was to be revived through a synthesis with modern sociological theories, mostly Durkheimian. Gökalp's synthesis was designed to accommodate *fiqh* and *uṣūl al-fiqh* with the ideological demands of the reconstruction of the Ottoman society as envisioned by the CUP. As a member of the Central Committee of the CUP, Gökalp's ideas were welcomed and he was allowed to propagate his ideas in the first Department of Sociology of Turkey at Istanbul University. Among the intellectuals who supported his project were M. Şeref, Halim Sabit, Şerafeddin (Yaltkaya), Mansurizade Sait. M. Şeref tried to apply the same synthesizing approach to '*ilm al-kalām* (Islamic Theology), and called for a "societal theology" (*ijtimā'ī 'ilm al-kalām*). However, from the ranks of the Young Turks, two objections were raised against Gökalp's "Societal *Uṣūl* al-*Fiqh*". One was by Said Halim Pasha[66] the other was by İzmirli İsmail Hakkı, both rejecting the injection of Durkheimian sociology into *fiqh*.

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[63] *Ibid.* 226f.; Ziya Gökalp, *Principles of Turkism*, 49-56, 65, 110, 115.

[64] Parla, Ziya Gökalp, *Kemalizm ve Türkiye'de Korporatizm*, 79-85.

[65] The Turkish word "*İctimā'iyyāt*" means study of society which could be understood both as sociology and social sciences. Here I will translate it as sociology because of Gökalp's occupation with it. For a journal published in the late Ottoman Empire with this name, see, Recep Şentürk, "İctimâiyyât Mecmûası", in *DİA* 21, 448f.

[66] Pasha here indicates a princely but not a military title.

Ziya Gökalp: Societal *Uṣūl al-Fiqh*

At the outset of his article "*Fiqh* and Sociology",[67] the first in the series of articles he published in *İslam Mecmū'ası* on the theory and method of the *fiqh*-sociology synthesis, Gökalp claimed that human deeds are studied from two perspectives: the first is from the perspective of benefit and harm, the second from the perspective of good and bad. The first perspective was used by administrative and managerial (*tadbīr*) sciences, including hygiene, economy and administration. Depending on the subject to which harm and benefit is related, it took different names such as the management and administration of the soul, house, city, and state. The second perspective, the study of human deeds from the perspective of good and evil, was adopted by *fiqh* which focused on two categories: religious worship and legal relations. *Akhlāq*, ethics and morality, dealt with the internal spiritual (*wijdānī*) dimensions of these deeds and thus were not treated separately in *fiqh*. However, since the *Tanẓīmāt* generation, *fiqh* became almost synonymous with "Islamic jurisprudence/law." Consequently, *fiqh* was used particularly for the second category of deeds.

Gökalp claimed that the Ottomans applied two major approaches to the study of society: *Tadbīr* (management/administration) and *fiqh*. Each had different branches, methods, principles and specialists. According to Gökalp, managerial or administrative sciences studied individual development and social organization (individual, house, city and state) with a methodology based on experimentation and rationality deriving from the principle of pursuing public benefit and avoiding social harm. *Fiqh* studied worship (*'ibādāt*), legal relations (*mu'āmalāt*) and morality (*akhlāq*) with a dogmatic and sociological methodology based on a distinction between good and evil.

Gökalp's goal was to create a theoretical and methodological ground for the synthesis of modern social scientific and *fiqh* approaches. The

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[67] Ziya Gökalp, "Fıkıh ve İctimā'iyyāt", in *İslām Mecmū'ası*, 1332/1914 (2): 40-44. I have transcribed Gökalp's articles on this issue in Latin script. See, Recep Şentürk, *İslam Dünyasında Modernleşme ve Toplumbilim* (İstanbul: İz Yayıncılık 2006), 284-308. On Gökalp's views on the social sciences see also M. Sait Özervarlı, "Transferring Traditional Islamic Disciplines into Modern Social Sciences in Late Ottoman Thought: The Attempts of Ziya Gokalp and Mehmed Serafeddin", in *MW* 97 (April 2007): 317-330.

Young Ottomans had already synthesized or eclectically brought together theories of *fiqh* and social sciences without dealing seriously with the methodological and theoretical questions posed. Gökalp's theoretical and methodological enterprise was a response to this need. He tried to lay the ground and set the program for this theoretical endeavour in his articles. The intellectual circle around him elaborated on the details of his project in *İslām Mecmū'ası*. His contemporaries and predecessors adopted sociological theories without researching the methodologies employed in producing them.

What made Gökalp stand out among his contemporaries was his attempt to initiate a methodological debate on how to synthesize social science and *fiqh* at the methodological level. After describing the map of societal sciences in his time, Gökalp looked at their methodology and brought to the forefront the social approach employed in *uṣūl al-fiqh*. By demonstrating that *uṣūl al-fiqh* used the social approach extensively, he aimed to lay the groundwork for incorporating some of the modern sociological insights in this methodology.

He argued that the controversy about the way good and bad are determined would be a useful topic to explore the relationship between *fiqh* and sociological methods. According to Gökalp, the scholars of *fiqh* disagreed with each other as to how to determine good (*ḥusn*) and evil (*qubḥ*) concerning deeds. For the *Mu'tazila,* the rationalist theologians, reason alone determined the quality of righteousness or evilness of a deed.

Gökalp rejected categorically the rationalist *Mu'tazila* perspective on the grounds that the way rationalists determined the moral quality of a deed was based on its benefit or harm. For Gökalp this view is in conformity with the managerial approach. In contrast, Gökalp claimed that a deed was good because it was believed collectively to be so by a society. The good might be beneficial too, but benefit alone was not enough to make a deed morally good for benefit was relative (what was beneficial for the individual might be harmful for the society) and reason might not always understand and appreciate the judgments of collective consciousness (*ijtimā'ī wijdān*).

Gökalp thus argued that logic did not understand the "sacred" (*mu'azzeze*, a word he coined to correspond to the concept of "sacred" which had not existed in Turkish or Arabic[68]), for otherwise consciousness (*wijdān*)

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[68] The divide between sacred and secular was foreign to the traditional Muslim Turkish

would transform into "managerial reason" (*mudebbire*), and morality would be replaced by economics and hygiene. This rationalistic and utilitarian approach, wrote Gökalp, had been rejected by sociology and philosophy, and, before them, by the Sunni *'ulamā'* (*ahl al-sunna*). For instance, wrote Gökalp, Turks hold sacred the Turkish flag with a crescent, and the *fez*, not because they were beneficial but because they had a lofty place in the Turkish collective consciousness.

Gökalp described the structure of *fiqh* in order to demonstrate that a social perspective had already existed in *fiqh*. *Fiqh* (*shar'*) determined righteousness or evil of a deed with reference to two criteria. The first of these criteria was dogma (*naṣṣ*), and the second culture (*'urf*). *Naṣṣ* consisted of the evidences in the Qur'ān and the Sunna, the example of Prophet Muḥammad. *'Urf,* culture, was the collective consciousness that manifested itself in the community's life and daily practices. The judgments (*ḥukm* pl. *aḥkām*) attributed to the deeds by dogma (*naṣṣ*) were either obligatory (*wājib*) or forbidden (*ḥarām*), whilst by culture (*'urf*), well-regarded (*ma'rūf*) or ill-regarded (*munkar*). *Mandūb*, recommended, was a subcategory of *wājib;* and, *makrūh*, discouraged, is a subcategory of *ḥarām,* forbidden. *Mubāḥ*, permissible, was the attribute of a deed which did not fall in the aforementioned normative categories.[69]

As a sociologist, Gökalp was interested in the usage of *'urf,* culture, in *uṣūl al-fiqh*. He further elaborated on this point as follows:

… the role of *'urf* is not only to distinguish what is *ma'rūf* (well-regarded), then what is, *munkar* (ill-regarded). … when it is required, *'urf* takes the place of *naṣṣ* as well, for it is clearly stated in a Prophetic tradition, "What is regarded good by the community of the believers is also good in the sight of God," and, in a *fiqh* principle, "Abiding by *'urf* is the same as abiding by *naṣṣ*." Muslims are responsible for following the rules that are not clearly stated in the *naṣṣ* (text of Qur'ān or Sunna), as well as for promoting the *ma'rūf,* and preventing the *munkar*. *Ma'rūf*, well-regarded acts, and *munkar*, ill-regarded acts, consist of what is well or ill regarded by the collective consciousness. Consequently, *fiqh* depends both on prophetic revelation, *waḥy,* and, on "sociology." That is to say the Islamic *sharī'a* is both divine and social.[70]

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ontology. The lack of this dichotomy played a great role in forestalling conceptual grounding of theocracy and secularism.

[69] Ziya Gökalp, "Fıkıh ve İctimā'iyyāt", 42. Şentürk, *İslam Dünyasında Modernleşme ve Toplumbilim*, 286.

[70] Gökalp, "Fıkıh ve İctimā'iyyāt", 42.

Having thus opened a conceptual space for his sociology in *uṣūl al-fiqh*, Gökalp explored the relationship between divine and social aspects of the *sharīʿa*. The former was immutable, while the latter was changeable depending on the "social type" (*enmūzej*) to which a society belonged. What was "well-regarded" in one type of society might be "ill-regarded" in another one. Consequently, the *sharīʿa* rules derived from them change over time. Gökalp argued against rationalist *fuqahāʾ* and social scientists that good and evil were neither rational nor individualistic. Following the communal idealists, he argued that the community decided what was good and bad. Good and bad were embodiments of collective consciousness. Therefore they were socially, but not rationally, determined. He gave examples to illustrate how the concepts of good and evil changed in relation to different types of societies, a typology he borrowed form sociology. His anti-individualistic and anti-rationalistic approach originated in his sociology which can be traced to Durkheim.

In the conclusion of the first article of the series in *İslām Mecmūʿası*, Gökalp summarized his perspective on the theoretical and methodological foundations of the program of social science-*fiqh* synthesis as follows:

> There are two origins of *fiqh*: traditional law (*naqlī sharīʿa*) and social law (*ictimāʿī sharīʿa*). Traditional *sharīʿa* is beyond evolution. Social *sharīʿa*, however, is, just like social life itself, in a continuous change (*devenir*). Thus, this dimension of *fiqh* is not only capable of evolving according to the evolution of Islamic society, *umma*, but it is obliged to do so. The dimension of *fiqh* that is derived from the *naṣṣ* (i.e. the text of Qurʾān and Sunna*)* is immutable and unchangeable until the end of the world. However, the *fiqh* application of these principles that are derived from human culture, *ʿurf*, and the consensus of *fuqahāʾ* must accommodate itself to the requirements of the social life of the age.[71]

Gökalp opposed two intellectual groups: first, traditional *ʿulamāʾ*, who either rejected any kind of change or had different ideas about how and what to change, and, second, the rival schools of sociology, especially that of Prince Sabahaddin—another prominent sociologist from that time. The latter called for an individualistic and rationalistic social science which was derived from Le Play and Demmolins, urging the Ottomans to follow the Anglo-Saxon model for the salvation of the shattering Empire, instead of the French or the German.

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[71] *Ibid.*, 44.

Gökalp's intellectual program cannot be fully understood without reference to the broader intellectual and political cleavages that divided the Ottoman political landscape prior to and during World War I. The state was challenged internationally, the government was challenged internally. The empire was under siege from several fronts and the question of survival was more pressing than ever. As the official ideologist of the CUP, Gökalp found himself at a turning point; he was challenged by internal and external social, political and cultural problems, which he tried to solve by mobilizing the conceptual tools at his disposal. On the one hand, he wanted to gain the support of the moderate *‘ulamā’* for CUP. On the other hand, he wanted to discredit the pro-Anglo-Saxon opponents of his party. Here lies the source of his critique of individualism and rationalism.

In opposition to these two groups, Gökalp tried to form a new group around the journal he initiated: *İslām Mecmū‘ası*. In his numerous articles in this journal,[72] Gökalp introduced his program in more detail and tried to demonstrate how it was going to be implemented with the cooperation of *fuqahā* and social scientists:

> Societal *Uṣūl al-Fiqh* studies social origins of *fiqh*, but can never claim to replace *fiqh*. This is similar to *naṣṣ* which cannot have such a claim in *uṣūl al-fiqh*. The roles of *iftā’* and *qaḍā’* belong to those *fuqahā’* who deal with *furū‘ al-fiqh*, but not to those who specialize in *uṣūl al-fiqh*. As to those who specialize in *uṣūl al-fiqh*, one of their divisions is responsible for guiding *fuqahā’* in the world of *naṣṣ*, and the other in the social world. The *fuqahā’* cannot consider themselves independent of either group.[73]

With this new intellectual division of labour, as we observe in the later issues of *İslām Mecmū‘ası*, he successfully gained the support of some sociologists and *‘ulamā’* who contributed to the project with their writings. Among them were leading figures such as Rizaeddin Fahreddin, Halim Sabit, Mansurizade Said, Mustafa Şeref, Seyyid Bey, and M. Şerafeddin. The latter must be paid a special attention not only because he initiated an analogous program to establish a "social theology", *ijtimā‘ī ‘ilm al-*

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[72] See Gökalp, *İslam Mecmûası*, 1332/1914 (1):14-17; 1332/1914 (2): 40-44; 1332/1914 (3): 84-87; 1332/1914 (8): 228-230; 1332/1914 (10): 290-295; 1333/1914 (17): 469-471; 1333/1915 (20): 517-524 & 528-529; 1333/1915 (21): 544; 1333/1915 (22): 552; 1333/1915 (26): 621; 1333/1915 (30): 679-680; 1333/1915 (34): 740-743; 1333/1915 (35): 756-760; 1333/1915 (36): 772-777; 1333/1915 (37): 791-796.

[73] Gökalp, "İctimā‘ī Usûl-i Fıkıh", in *İslām Mecmū‘ası*, 1332/1914 (3): 87.

kalām, but also because he was going to be close to Atatürk in the Turkish Republic, advising him on religious matters.

We are still intrigued by the question as to which *fiqh* and which social sciences were late Ottoman intellectuals attracted to and why. An analysis of the composition of Gökalp's team and their ideas may shed light on this question. Ibn Taymiyya's puritan *fiqh,* which opposed blind imitation of previous *fuqahā',* gained prominence in *İslām Mecmū'ası* through the writings of Rızā'eddīn b. Fakhreddīn.[74] The reformist approach to *fiqh* searched for other historical figures to support their ideas so as to establish themselves traditionally. *İslām Mecmū'ası* argued for a functional *fiqh* with the gate of *ijtihād* open and the zealotry of *madhhab* left behind. As to social science, the theories that are incorporated in its intellectual endeavour were mostly French, especially Durkheimian.

Opposition to the *fiqh*-social science Synthesis

Now we can have a look at the opposition to Gökalp's Societal *Uṣūl al-Fiqh* in the Ottoman intellectual circles. Since Gökalp touched a long-ignored question, the methodological and theoretical problems underlying the synthesis of *fiqh* and social science, his ideas sparked an engaging intellectual debate involving different strands of Ottoman intellectuals.

Among the interesting critiques of Gökalp's ideas on *fiqh* and social sciences were those by his fellow Young Turks who were also modernists. These critics cannot be seen as reactionary conservatives. I will draw attention to the work of two intellectuals, İzmirli İsmail Hakkı and Said Halim Pasha, who opposed Gökalp on this particular issue, although they all had occupied important positions in the same party, the CUP, during its opposition to 'Abdu l-Ḥamīd II prior to the 1908 revolution, and while it was in power until the collapse of the Ottoman Empire.

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[74] For a series of articles see, Rızā'eddīn b. Fakhreddīn, "İmam İbn Teymiyye", in *İslam Mecmuası,* 1332/1914 (6): 166-169; 1332/1914 (8): 230-233; 1333/1915 (19): 507-511; 1333/1915 (22): 557-559; 1333/1915 (24): 590-591; 1333/1915 (26): 620; 1333/1915 (28): 654-655; 1333/1915 (29): 668-670; 1333/1915 (30): 683-687; 1333/1915 (31): 699-702; 1333/1915 (32): 717-719; 1333/1915 (33): 736-738; 1333/1915 (35): 767-770; 1333/1915 (38): 813-816; 1334/1915 (40): 845-847; 1334/1916 (43): 893-896.

These critics addressed themselves to different aspects of Gökalp's program. İzmirli challenged Gökalp's understanding of the science of *fiqh* and tried to demonstrate that Gökalp's assertions about *fiqh* could not be legitimized. A conservative figure, Sheikhu l-islām Mustafa Sabri in his book *Religious Revivalists* (*Dînî Mücedditler*) criticized Gökalp[75] and his reformist friends. Said Halim, on the other hand, without mentioning Gökalp's name, criticized the Ottoman intellectuals of his time on the issue of modernization. Unlike Mustafa Sabri and İsmail Hakkı, whose critique derived from classical *fiqh*, Said Halim used a cultural and social structural perspective to demonstrate that synthesizing *fiqh* and social sciences was not needed and in fact doomed to failure.

İzmirli İsmail Hakkı: Critique by a modernist Scholar

İzmirli İsmail Hakkı (1868-1946), a Young Turk *'ālim* [76] criticized *Societal Uṣūl al-Fiqh* in a series of articles in *Sebīlü r-reşād*. In this way, İzmirli was involved in a public debate with the authors of *İslām Mecmū'ası* about their concept of *fiqh*. [77] In typical traditional fashion, his criticism were made in response to a reader, a student of religious sciences named Irakli A. K., who asked him twelve questions.[78] These questions extrapolated the main assumptions and arguments of Gökalp and his friends and asked for further elaboration; (1) "The science of *fiqh* does not deal with actions relative to benefit and harm; it deals with actions relative to good and evil." What is the opinion of *Sebīlü r-reşād* on this question? (2) Is it appropriate to divide Islamic *fiqh* into two separate sections as "Islamic worship" and "Islamic law?" (3)

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[75] M. Sabri, *Dînî Mücedditler* (İstanbul: Sebil Yayınları, 1977), 18ff.

[76] İsmail Kara, *Türkiye'de İslamcılık Düşüncesi* (İstanbul: Risale Yayınları, 1988), 89-136; Hilmi Ziya Ülken, *Türkiye'de Çağdaş Düşünce Tarihi* (İstanbul: Ülken Yayınları, 1966), 275-278.

[77] See, *Sebīlü r-reşād Mecmûası* Vol. 12 (1330/1914), no 288: 22-24, no 303: 296-301, no 304: 315-319, no 305: 326-329, no 306: 345-351 and Vol. 13 (1330/1914), no 329: 128-129, no 330: 135-137. For a complete list of his writings on the issue in *Sebīlü r-reşād* see, Abdullah Ceyhan, *Sırât-ı Müstakîm ve Sebīlü r-reşād Mecmûaları Fihristi* (Ankara: 1991), 395ff.

[78] For İzmirli's articles with his responses to these questions in Latin script see, Recep Şentürk, *İslam Dünyasında Modernleşme ve Toplumbilim* (İstanbul: İz Yayıncılık 2006), 324-410. For the originals in the Ottoman Turkish, see, *Sebīlü r-reşād* Vol. 12 (1330/1914), no 292: 94-97, no 293: 128-132, no 294: 134-138, no 295: 150-154, no 296: 170-175, no 297: 190-195, no 298: 211-216.

What is the doctrine of the Sunnite School (*Ehl-i Sünnet Mezhebi*) on moral good and bad (*ḥusn* and *qubḥ*)? (4) What is the doctrine of Abū Yūsuf on culture (*ʿurf*)? (5) What is the meaning of the following *fiqh* principles? First, "Reasoning (*ijtihād*) is not accepted in the existence of textual reference (*naṣṣ*)" and, second, "Abiding by *ʿurf* is the same as abiding by text." (6)It is said that "for some *fuqahāʾ*, if dogma is derived from culture, *ʿurf*, reasoning is acceptable in the existence of dogma." What does this mean? (7) What is the place of culture (*ʿurf*) in Islam? (8) What is the practice of the People of Medina (*ʿamal-i ahl-i Medīne*)? (9) What are the principles of analogy (*qiyās*) and consensus (*ijmāʿ*)? Is analogy reducing judgment (*ḥukm*) to dogma? (10) Did the doctrine of Dāwūd al-Ẓāhirī conflict with social life? (11) Is *fiqh* reasoning (*ijtihād*) a result of the need for adjustment to culture, *ʿurf*? (12) Is there a need for *Societal Uṣūl al-Fiqh*? If we assume that there is such a need, what are the governing principles in this issue?[79]"

The questions raised by this student suggest how Gökalp's project was perceived by some *ʿulamāʾ*. The reinterpretation of *fiqh* that Gökalp and his group presented in *İslām Mecmūʿası* seems to have undermined the prevailing understanding of *Uṣūl al-fiqh*. İzmirli concluded his series of articles on the Societal *Uṣūl al-Fiqh* with a negative judgment:

> None of the reasons for the necessity of Societal *Uṣūl al-fiqh* logically require this result. All of them are refuted by *fiqh* and *uṣūl al-fiqh*. The principles of *uṣūl al-fiqh* and the rules of *fiqh* are enough for the present and future potential social problems. For the emerging conditions, it will be sufficient to apply the sublime science of *fiqh* to obtain the desired outcomes and to protect the legal order, *sharīʿa*.[80]

Nevertheless, İzmirli accepted the stagnant state of *fiqh* and proposed alternative ways to rejuvenate it: "It should not be forgotten, however, that our need for a new *Uṣūl al-fiqh* is evident".[81] He briefly explained how this project should be carried out. This new *uṣūl al-fiqh*, he suggested, should concentrate on social relations and use concrete examples taken from present social reality. And "the laws should be interpreted by *Uṣūl al-fiqh*, the adoption of which, similar to *Mecelle*, should be made mandatory for the courts." As to the issue of naming, İzmirli does not

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[79] İzmirli İsmail Hakkı, "Fıkıh ve Fetâvâ", in *Sebīlü r-reşād Mecmûası*, no 292: 94.
[80] İzmirli İsmail Hakkı, "İctimāʿī Uṣūl-i Fıḳıha İḥtiyāc Var mı?", in *Sebīlü r-reşād*, no 298: 215.
[81] İzmirli, "İctimâî Usul-i Fıḳıha İhtiyaç Var mı?", 215.

object to call a *fiqh* which would be thus rewritten a Societal *Uṣūl al-Fiqh*. If Societal *Uṣūl al-Fiqh* were to be rewritten, it must be rewritten as he described it. A Societal *Uṣūl al-Fiqh* which is completely different from *uṣūl al-fiqh* without any essential relationship to it, is nothing but "personal opinion; and in contradiction with the goals of *sharīʿa*. It will not be fruitful, nor loving, nor lively. Conversely, it will be barren, disliked, and without spirit".[82]

İzmirli tried to concretize his ideas on New *Uṣūl al-fiqh* in his scholarly works which had a significant impact on Turkish intellectuals. His influence lasted longer than Gökalp's Societal *Uṣūl al-Fiqh*.[83] İzmirli agreed with Gökalp and his friends on the diagnosis, which was that the science of *fiqh* needed rejuvenation; however, they opted for different solutions.[84]

Said Halim Pasha: Critique by a Young Turk Statesman

Gökalp had never explicitly dealt with *why* Ottomans needed social sciences. His question was *how* to incorporate them into the Ottoman intellectual landscape. The question about whether such a synthesis was needed had to wait for another Young Turk, Said Halim Pasha, who proposed this question, and answered it negatively. Prince Said Halim Pasha (Cairo 1863—Rome 1921), statesman and intellectual, and the grand vizier of the Ottoman State at the outset of the First World War (1913-1917), is another Young Turk who dealt seriously with the relationship between *fiqh* and social sciences as well as their intellectual

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[82] *Ibid.*, 216.

[83] For the Latin transcription of his article, see, Şentürk, *İslam Dünyasında Modernleşme ve Toplumbilim*, 320-323. For the original in the Ottoman Turkish, see, Şerafeddin [Yaltkaya], "İctimāʿī ʿİlm-i Kelâm", in *İslām Mecmūʿası*, 1333/1914 (15): 434-436. For his other writings see, *İslām Mecmūʿası*, (12): 357-361; (14): 425-429; (18): 490-492; (19): 506-508; (25): 604-606; (27): 650-654; (56): 1108-1112 & 1116-1120; (60): 1153-1154; (61): 1161-1162; (62): 1168-1169; (63): 1179-1181 (all published 1332-1334/1913-1916). See also Özervarlı, "Transferring Traditional Islamic Disciplines".

[84] İzmirli, being aware of the fact that such a project was not possible without a revived Islamic Theology, the science of *kalām*, he worked for establishing a New ʿIlm al-Kalām, in opposition to M. Şerafeddin's Social ʿIlm al-Kalām, which, owing to Gökalp's influence, appeared for the first time in *İslām Mecmūʿası*. For the writings of İzmirli on the New *İlm-i Kelâm*, see, *Sebīlü r-reşād* Vol. 22, no 549-550: 30-32.

functions in the Ottoman State. His intellectual career included a degree in political science from Switzerland[85] and his political career included key roles in opposition against ʿAbdu l-Ḥamīd II in the ranks of the Young Turks, and later, in CUP governments. He wrote in French.[86] Ironically enough, despite his education in the modern social sciences, he was one of the outstanding defenders of *fiqh* as the societal science of Islam. He expressed his core ideas in his short book *Les Institutions politiques dans la societé musulmane* (1921). The book argues that Muslim intellectuals who assumed that the European and Islamic cultures are compatible are wrong because Islamic and European concepts of social life and institutions are completely different. For Said Halim, these two worlds were so essentially dissimilar that no reform effort could eliminate or considerably change this. This did not mean the wholesale rejection of modernization. Said Halim distinguished between natural and cultural sciences and claimed that the latter were more difficult to change.

Said Halim Pasha's views on the *fiqh*-social science synthesis constitute a critique and a counterargument to the prevailing view among the intellectuals of his time. Unlike traditional *ʿulamāʾs* critique of the idea of synthesis, which relied on traditional arguments to refute such a project, Said Halim used modern social science language and arguments, which he owed to his modern Western education in political science. He wrote,

C'est donc au Fikh que nous devons demander de créer et de regler toute notre organisation tout notre systeme économique dans le sage esprit du Cheriat pour qa ils répondent á la conception philosophique du bonheur humaine telle qu'il est engendrée par l'Islamisme. Car alors ils seraient exemples des vices et des

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[85] Said Halim Pasha may be the first Turkish social scientist with a formal university education in the West. His rival, Gökalp, did not have a formal training in sociology. See, Şentürk, *İslam Dünyasında Modernleşme ve Toplumbilim*, 411-448.

[86] It is reported that he wrote his books and articles first in French then had them translated to Turkish (Kara, *Türkiye'de İslamcılık*, 76). His *Buhranlarımız* (Our Crisis) includes seven previously published pamphlets (first published in 1919, later editions by Düzdag, M. Ertuğrul (ed.), *Buhranlarımız* (İstanbul: Tercüman Gazetesi, n.d.) and Özalp, N. Ahmet, *Said Halim Paşa Bütün Eserleri* (İstanbul: Anka yay., 2003). There is another book by him which is more important for our concerns here: *Les Institutions politiques dans la societé musulmane* (first published in Rome, 1921, also published as "Notes pour servir à la réforme de societé" in *Orient et Occident*, 1922) and was translated to English as *The Reform of Muslim Society* (1967).

défauts graves de ceux des peuples d'Occident et qui sont dùs à ceux des peuples d'Occident et qui sont dùs à ceux de leur système social.[87]

Said Halim argued that humans follow physical laws in nature. In social life, *sharī'a* corresponds to these natural laws and has complete sway over social life in an Islamic society. They are given naturally by Providence but not gained through political struggle of power groups. The human mind, on the other hand, is not so easily capable of discovering the laws that govern society. Even if they should become known in the end, the promise of social sciences may take a long time to come true; meanwhile, we cannot afford waiting such a long period for social scientists to tell us these laws. He made a distinction, for the first time, between cultural and natural sciences as well as between Western and Islamic sciences. Prior to him, this cultural relativism did not exist among Ottoman intellectuals. They all shared a similar concept of social knowledge that mirrored traditional concepts of *'ilm*. The common view of Western social science was that it was just another type of *'ilm* and it was mandatory for Muslims to adopt it due to the Prophetic instructions to obtain *'ilm* regardless of its type and source.

Consequently, the question for the Young Turks was not whether or not to adopt Western social sciences, but *how* to accommodate them in the Ottoman intellectual landscape. The Young Ottomans had not asked this question. Therefore, it might be considered significant for the Young Turks to question the methodological and theoretical foundations of the synthesis which they had inherited from Young Ottomans. It seems that Ottoman intellectuals from that period gradually became aware of the difficulties of the synthesis between *fiqh* and social sciences. In this development, Said Halim, after Gökalp, marks another important turning point. Whereas many Young Turk leaders and intellectuals opted for the practical and theoretical commitment to Western science, Said Halim Pasha argued that Ottomans did not need to adopt the European social scientific perspective because the problem with Ottoman State was economic, which would be solved through economic and technological development, but not cultural.

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[87] Le Prince Saïd Halim Pacha (Ancien Grand Vizier), *Les Institutions Politiques dans la Société Musulmane* (Rome: n.p. 1921), 27f.

Thus, the kind of knowledge Ottomans needed to take from Europe, Said Halim argued, could be limited to the natural sciences, and did not include cultural and moral theories and values.

'Ulamā': Uncritical acceptance of sociology

These critiques levelled against Gökalp should not lead us to think that the European social theories did not permeate the mind of the religious intellectuals and the *'ulamā'*. They almost unanimously adopted the sociological, more precisely the Durkheimian, approach to religion as a social institution with functions required by society. The social functionalist approach to religion gained prominence even among the conservative *'ulamā'* who defended Islam against attacks on the grounds that religion was necessary for social solidarity and for the survival of the state and the nation, an argument also used by their proponents, the more secularly inclined Young Turks.[88]

Similar to sociologists like Gökalp, who tried to use *fiqh* for their own intellectual and political purposes, the *'ulamā'* also adopted a certain kind of sociological approach, functionalist, solidarist, and conservative, to use for their own purposes. The perspective adopted by the Islamic Thought Academy, *Dāru l-Ḥikmeti l-İslāmiyye*, provides an example of the eclectic or the pro-synthesis *'ulamā'* approach. It was a governmental organization housing the elite scholars in *fiqh, kalām,* and *akhlāq,* including İsmail Hakkı, Ahmet Cevdet, Ahmet Rasim Avni, Ali Rıza, Ahmet Sirani, Ferit Bey, Hüseyin Avni, Hüseyin Kamil, Haydarizade İbrahim Efendi, İsmail Efendi, Mehmet Akif [Ersoy], Mehmet Necip, Mehmet Şevketi, Muhammed Hamdi Elmalılı, Mustafa Âsım, Mustafa Sabri, Mustafa Safvet, Mustafa Tevfik, Recep Hilmi, Sadreddin Efendi, Said Efendi [Bediuzzaman], Seyit Nesip, Şerif Saadeddin Pasha.[89] The academy was established during the reign of Mehmet Reşat V and Sheikhu l-islām Musa Kazım in 1918, and remained in existence until 1922. The Islamic Thought Academy published *Cerīde-i 'İlmiyye,* the

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[88] Hanioğlu, *Abdullah Cevdet*, 139ff.; Mardin, *The Genesis*, 10f., 16-21
[89] Sadık Albayrak, *Son Devrin İslam Akademisi* (İstanbul: Şamil Yayınları, 1972), 164-205.

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Journal for Islamic Sciences. Science in this context meant Islamic religious disciplines.

Despite the academy's declared Islamic identity, it worked from sociological premises, without seeing any contradiction between them and Islam. The opening statement of the Academy started as follows: "Collective consciousness is one of the questions explored by sociology in our age. The social conditions of collective consciousness are today begun to be observed, which had been studied until recently only in individual terms. And it is also understood that survival of nations depends on collective consciousness. ... We cannot, therefore, imagine a nation without a religion".[90] One of the roles of the Academy was to publish "books about the *uṣūl*, fundamentals, and *furū'*, branches, of Islamic religious regulations, derivation and reasoning of various *fiqh* schools, their relations with, and comparison to, other juridical sciences and social philosophies, legal exploration and civilizational dignity of the Islamic social life/sciences (*ijtimā'iyyāt*), history and reasons for development and decay".[91] The Academy, which actively responded to the critiques of *fiqh*,[92] was the last major Ottoman effort to revive *fiqh* and to demonstrate its public relevance.

Conclusion: *Fiqh* the outlawed science of society

The period of eclectic and synthesizing intellectuals officially ended when the newly established Republic of Turkey adopted Durkheimian sociology and outlawed *fiqh* education in schools towards the end of the 1920s. The new state saw this radical paradigm shift as an inevitable turn for successful westernization, modernization and secularization. This new policy ended the duality or the dialectic between intellectual, cultural and civilizational policies. The new policy pointed only towards the West. The ambivalence concerning the wholesale westernization policy since the *Tanẓīmāt* reforms no longer existed in the Kemalist reform movement. However, without the legacy of the eclectic and

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[90] *Ibid.*, 81.
[91] *Ibid.*, 95f.
[92] *Ibid.*, 126f.

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synthesizing intellectuals since the *Tanzīmāt*, Kemalist reforms would have been impossible.[93]

Consequently, social scientists gained prominence and became guides in the march towards the light of modern science and civilization, although the government did not respect their opinions all the time. Nuray Mert describes how sociology was used as an intellectual tool to serve this purpose.[94] Their role was to introduce Western social science, yet not with its full diversity, but solely the positivist French school that suited the interests of the new elite and conformed to its policies. Social scientists were needed to fill the intellectual space surrendered by *fiqh* and the *'ulamā'*. Their task was easy this time, for they had no contenders, as the *'ulamā'* order and *fiqh* were officially outlawed.[95] The rule was no longer "in the name of God" but, as the new constitution stated, "in the name of Nation".[96] In the mind of the new reformers, theory was no longer a constraint, and was to follow action anyway. Their maxim was "Doctrine follows action".[97]

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[93] Richard D. Robinson, *The First Turkish Republic: A Case Study in National Development* (Cambridge: Harvard University Press, 1965), 3.

[94] Nuray Mert, *Laiklik Tartışmasına Kavramsal Bir Bakış: Cumhuriyet Kurulurken Laik Düşünce* (İstanbul: Bağlam Yayınları, 1994).

[95] For a sociological observation on *fiqh* during the Republican era in Turkey, see, Şerif Mardin, *Religion, Society and Modernity in Turkey* (Syracuse, NY: Syracuse University Press 2006), 264f. Mardin argues that "the disappearance of *fiqh* erased the earlier organic bond between law and justice or law as justice" (264).

[96] Lewis, *The Emergence of Modern Turkey*, 260.

[97] Parla, Ziya Gökalp, *Kemalizm ve Türkiye'de Korporatizm*, 209.