

Ottoman Empire and Eurocentric Law of Nations

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Introduction

Contemporary Turkish scholars of international law define the Treaty of Lausanne, which formalized the end of the Ottoman Empire and recognition of the new Muslim majority sovereign state in Turkey in July 1923, as the end of the century-long critical engagement with the European law of nations in the struggle for sovereignty and international legitimacy for the Ottoman elite. Deliberations around the eight months long negotiation of the Lausanne Conference were not simply over legal technicalities, such as the rights of Christian minorities, specific borders separating sovereign Turkey from French Mandate territories in Syria, and the distribution of public debt among post-Ottoman polities. These legal clauses were debated against the background of competing political narratives of where the relationship between Ottoman Empire and European international law took a wrong turn, and included redefinitions of ideas of civilization, race and modernity as it applied to Muslim populations in Europe's southeastern borderlands.

The importance of Islam and Christianity in the application of international law especially pervaded the media coverage and events around the Lausanne Treaty, which demonstrate the crucial role of race and religion in the formation of our contemporary norms of nationhood and sovereignty. The Turkish delegation in Lausanne re-asserted arguments for the civility of Ottoman Muslims deserving equality in international law, and blamed the conflicts of the previous decade, including the expulsion of Armenian populations from Anatolia, on their mistreatment by great European powers, while influential segments of European politicians and public continued their opinion that "Terrible Turks" were not fit for rule over Christians populations. Muslim publics across British colonies in Asia and Africa followed the conference negotiations to understand and influence what they considered the future of Islam and Muslim World in the new international order. Those who argued that Turkish Muslims should not be entrusted with civilized rule over non-Muslims invoked a narrative of the failure of the Ottoman governments to fulfill the standards of European civilization with regard to equal treatment of Christian subjects throughout the previous century.¹ Ottoman elites have been making a series of argument about the civility of their religion and race and their capability to fulfill the standards of civilization, and during the Lausanne treaty, they received intellectual support from Swiss intellectuals sympathetic to Turkey, including several anthropologists, to make a case that they can be an honorary white race instrumental in civilizing Asia

¹ American Committee for the Independence of Armenia, *Lausanne Treaty and Kemalist Turkey*, (New York, 1924)

and the East. With the signing and ratification of the Treaty in July 1923, Turkey as the main inheritor of the Ottoman empire eventually gained the right to legal equality and sovereignty, fulfilling the vision Ottoman elites had pursued since the early 19th century.

By looking closely at Ottoman self-strengthening reforms over the long 19th century, as well as multiple centuries of Ottoman diplomatic and military relations with other European empires, we can gain insights into the major controversies and debates over the racial and imperial politics of Eurocentric international law. The Ottoman empire was not a direct European colony, and thus did not experience European imperial governance that extended the norms of the European law of nations to the rest of the world. Governments of the Ottoman Empire, which had centuries-long ties to European practices of diplomacy and warfare, embraced and became part of the inter-imperial and multilateral diplomatic practices associated with the European law of nations in the 19th century through their own agency. Representatives of Ottoman Foreign Ministry, for example, accepted the invitation to join the Berlin Conference of 1884-1885 as a participant in order to regulate the European colonization and trade in Africa. During the process of Ottoman engagement with European international law, however, colonial and racial politics were manifested in discourses on Islam and modernity, rights of Christian minorities living under the rule of a Muslim monarch, and on the symbolic significance of the Ottoman Caliphate for the struggle of rights of Muslims across the imperial world.

Earlier scholarship on Ottoman Empire's relationship with European powers relied on an assumption of conflict between those who wanted to adopt and embrace Eurocentric law of nations and those who resisted this process through adherence to an alternative Islamic legal tradition.² Contrary to depictions of the Ottomans as an intrinsically Islamic empire opposing European norms, one of the most compelling critique of the 19th century Ottoman elite by the founders of Turkish republic was that late Ottoman reformist elites were naively over-reliant on diplomacy and international law to preserve their empire, neglecting the significance of military might and popular nationalism. Early 20th century Ottoman intellectuals began to believe that liberal trust in law and diplomacy alone was not sufficient to protect their empire from aggressive and militaristic European great power interventions, and the Ottomans needed both international Muslim solidarity and geopolitical alliance with other European empires to ensure the fair application of international law.³

² For Orientalist scholarship that depicts the Ottoman empire as a sharia-based state, see Bernard Lewis, *The Emergence of Modern Turkey* (London, 1962), 1-39. For the internalization of this perspective by scholarship on Ottoman diplomacy, see Jacob. C. Hurewitz, "The Europeanization of Ottoman Diplomacy: The Conversion from Unilateralism to Reciprocity in the Nineteenth Century." *Belleleten* 25.99 (1961): 455-466.

³ Mustafa Aksakal, "Not 'by those old books of international law, but only by war': Ottoman Intellectuals on the Eve of the Great War," *Diplomacy and Statecraft* 15.3 (2004): 507-544.; Minawi, Mostafa. "International law and the precarity of Ottoman sovereignty in Africa at the end of the nineteenth century." *The International History Review* (2020): 1-24.

But this early 20th century Ottoman critique of international law and their emphasis on the spiritual sovereignty of the Caliphate during the reign of Sultan Abdulhamid II (1876-1909) leads to another misconception, namely that reformist Ottoman elite regretted the state's Eurocentric orientation in diplomacy and legal internationalism, and embraced Pan-Islamic solidarity as a return to the Islamic character of the Empire.⁴ Recent scholarship, however, has illustrated that late Ottoman governments claim of dealership of an imagined Muslim world was aimed to assure its belonging to Eurocentric imperial international law, not to reject it. Many elements of the late 19th century Ottoman government's appeal to the Caliphate and Muslim world solidarity was not a reinvention of the medieval juridical concept of the Darül Islam but, to the contrary, further internationalized the crisis that the Ottoman Empire faced in diplomacy with other European empires. In that sense, Caliphate diplomacy from the 1880s to the 1920s complemented the official Ottoman preference for, and participation in, multilateral European diplomacy and international law, because almost all the Muslim populations that the Ottoman government claimed spiritual sovereignty were all subjects of European empires. Until the eve of WWI, the Ottoman government refrained from promotion of an anti-imperialist notion of the caliphate and Pan-Islamism, and even the notorious Ottoman Holy War in November of 1914 waged against British, French and Russian Empire was announced in the context of a firm formal alliance with the German Empire, when the Ottoman government was part of a European alliance system. Thus, Ottoman imperial claim over leadership over the Islamic world was not aimed to create an alternative to European regional imperial order and international law. On the contrary, it was utilized a means to assert Ottoman membership into European club of empires while reinterpreting European international law in a way to ensure empire's sovereignty.

Thus, it is incumbent on new scholarship to narrate the history of the Ottoman empire's engagement with European international law without reproducing obsolete assumptions and myths of a clash between Islamic and Western international legal norms, the Ottoman elite's inability to harmonize the two, or the state's tragic preference of one over the other. The most persistent myth about the Ottoman Empire and European international law is that that the Ottomans were torn between their obligations to Europe and Mecca, made only a half-hearted and insincere references to the norms of the European imperial club, eventually realized the futility of this attempt on the eve of WWI, and thereupon returned to the Islamic world and assumed the role of anti-imperialist leader of the colonized Muslim World. One reason for the stubborn persistence of the idea of an Ottoman empire torn between two conflicting international legal

⁴ For Tanzimat reforms, see Roderic Davison, *Reform in the Ottoman Empire, 1856-1876*. (New York: Gordian Press, 1973). For one of the first positive assessment of the Abdulhamid era Ottoman diplomacy in English language literature, see F. A. K. Yasamee, *Ottoman Diplomacy: Abdülhamid II and the Great Powers, 1878-1888*. (Istanbul: Isis Press, 1996). Azmi Özcan, *Pan-Islamism: Indian Muslims, the Ottomans and Britain, 1877-1924* (Leiden: Brill, 1997). The most comprehensive account of the Abdulhamid period Ottoman governance beyond the binary dichotomies of pro-Western reformists versus Islamically inspired conservatives, is Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Powers in the Ottoman Empire 1876-1909* (London: I.B. Tauris 1998)

traditions was the Turkish Republic's systematic westernization program. It was Turkish Republic's own history thesis that portrayed Turkey's westernization as a resolution to the impossibility of earlier Ottoman commitments to both the European law of Nations and the idea of Caliphate's leadership in the Muslim world by abandoning Muslim civilization in favor of joining Western civilization. Mustafa Kemal Atatürk was praised in both Turkish official history textbooks and in European narratives as a hero who thwarted the post-WWI plans of European imperialists to deprive the Turkish nation of self-determination in Anatolia by crushing an invasion led by Greek armies and allied powers and then, immediately after defeating European imperialism adopting Western modernity and concomitant legal system. Yet, it is forgotten that the Ottoman governments of the long 19th century never subscribed to an anti-Western ideology based on Islamic legal obligations or Darül Islam, and they were already a willing participant in the norms of Eurocentric law of nations. For various geopolitical and ideological reasons, leaders of the Turkish republic refashioned a narrative of cultural Westernization and civilizational conversation to the West, and rewrote the history of the Ottoman failure to achieve legal equality partly a result of their Islamic allegiances. This chapter argues that even the early 20th century Ottoman claim of leadership in the Muslim World was an extension of its investment in Eurocentric global governance and, ironically, the so-called Caliphate diplomacy and Pan-Islamism further globalized the norms of the European law of nations.

This chapter will provide an overview of how the Ottoman empire became a persistent and permanent member of European international legal order during the long 19th century, and contextualize the Eastern question debate on Ottoman Empire's shortcomings as a civilized European empire due to its Muslim identity. Retrospectively, when we look at the details of the Ottoman legal system and its engagement with Eurocentric international law, there was not any objection or violation that derived from Muslim legal tradition. Gradual racialization of Muslims in late 19th century imperial world, and its implications for European great power policies towards the Ottoman Empire within the diplomatic language of Eastern question, should be read as a pragmatic narrative of exclusion and inclusion, but not an objective description of the Ottoman failure to understand and follow European law of nations. Only in the last half a century of the Ottoman Empire, Pan-Islamism emerged as an attempt to critique, reform, tame and universalize Eurocentric norms rather than to reject them completely. The majority of the Muslims who lived outside of Ottoman territories and saw the Ottoman Sultan as their spiritual caliph were themselves subjects or citizens of European empires experiencing discrimination through racialized treatment and governing practices. When Ottoman diplomats turned their attention to the majority of Muslims residing outside of Ottoman territories, they had to account for racialized European imperial governance in Asia and Africa. Thus, Pan-Islamist discourses and visions were directly related to the problem of racialization of Muslims in colonial empires, a process that was seen as linked to the unequal treatment of the Ottoman empire in international law. From this perspective Caliphate diplomacy should be seen as an extension of

the Ottoman Empire's grand strategy to use European international law to defend its interests and sovereignty, not the abandonment of this strategy in favor of a traditional and insular Islamic world free from European laws.

Ambivalent Legacies of the 1856 Inclusion of the Ottomans into European international Society

Before the 19th century, multiple regions of the world observed different traditions of legal diplomacy, and there is nothing that innately privileged the set of rules governing interstate relations originating from Europe in dominating the rest of the world. As Lauren Benton has explained, "European international lawyers working for European states would not have chosen to imagine a global legal order centering around a region outside Europe, nor would they have elevated a different kind of political formation to primacy in the international system in place of the nation-state. A European preference for describing the global order as an interstate system centered in Europe does not make this formulation either useful as theory or accurate as historical narrative."⁵ It is important to ask why and how non-European states in Asia and Africa ended up accepting a European-originated set of principles of international law. Part of the answer to this question lies in the expansion of European hegemony through colonies and protectorate regimes facilitating the imposition of European legal system on other societies.⁶ Equally important for this process was conditional inclusion of new members such as Japan, China and the Ottoman Empire into European imperial society upon the fulfillment and re-negotiation of a set of rules of diplomacy and warfare originating from the European experience.⁷ The Ottoman Empire is often considered the first non-European empire, ruled by a Muslim dynasty, that embraced the European law of nations.

According to both conventional narratives of international history and well-established Ottoman and Turkish nationalist historiography, the Ottoman empire became a member of European international society with the Paris Treaty concluding the Crimean War in March of 1856. Article 7 of this Treaty announced that:

"His Majesty the Emperor of France, His Majesty the Emperor of Austria, Her Majesty the Queen of United Kingdom of Great Britain and Ireland, His Majesty the King of Prussia, His

⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2010).

⁶ Anthony Anghie, "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law," *Harvard International Law Journal* 40, No. 1 (Winter 1999): 1-80.

⁷ Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010).

Majesty the Emperor of all the Russians and His Majesty the King of Sardinia declare the Sublime Porte admitted to participate the advantages of the public law and concert of Europe. Their majesties engage, each on his part, to respect the independence and territorial integrity of the Ottoman Empire and guarantee in common the strict observance of this engagement and will, in consequence, consider any act tending to its violation as a question of general interest.”⁸

Article 9 in the same Treaty hinted at a complaisantly-stated condition for this acceptance into European club by linking Ottoman membership to reforms with regard to the rights of non-Muslim subjects, without threatening Ottoman state sovereignty with interventions by other imperial powers:

“His Imperial Majesty the Sultan having, in his constant solicitude for the welfare of his subjects, issued a Firman, which, while ameliorating their condition without distinction of Religion or of Race, records his generous intentions towards the Christian population of his Empire, and wishing to give a further proof of his sentiments in that respect, has resolved to communicate to the Contracting Parties the said Firman, emanating spontaneously from his Sovereign will. The Contracting Powers recognise the high value of this communication. It is clearly understood that it cannot, in any case, give to the said Powers the right to interfere, either collectively or separately, in the relations of His Majesty the Sultan with his subjects, nor in the Internal Administration of his Empire.”

Recent scholarship has consistently confirmed that the Ottoman Empire was fundamentally different than China, Japan, Siam as it was part of the European law of nations for several centuries prior to the signing of Paris Treaty, with involvement with European diplomacy increasing especially after the Napoleonic Wars. Yet, both scholars of European international law and the Ottoman bureaucrats themselves understood this clause in the 1856 Treaty as a key turning point in the expansion of Christian European international society into an empire ruled by a Muslim dynasty (with millions of Christian subjects), with divergent interpretations of the developments from 1856 to 1914. For the Ottoman elite, the 1856 Treaty became the foundation of a narrative arguing that European imperial and racialized diplomacy betrayed the treaty’s assurance of inclusion and equality for the Ottomans in international law. European powers added additional burdens, standards and conditions for Ottomans to preserve their inclusion within this order, and from their perspective, the Ottoman side failed to meet the standard of civilization to remain in European international society. The Ottoman government was subjected to unequal diplomatic treatment, extraterritorial jurisdiction and capitulations from 1856 until 1914, though it was never

⁸ For the text of Paris Treaty, see: T. E. Hall (ed.), *The European Concert in the Eastern Question: A Collection of Treaties and Other Public Acts*, (Clarendon Press, Oxford, 1885), pp. 241–259. See also Hugh McKinnon Wood, ‘The Treaty of Paris and Turkey’s status in international law’, *American Journal of International Law*, 37(2), 1943, pp. 262–274.

officially kicked out of the European law of nations. The Ottoman government, however, produced a counter-narrative, blaming the double standards in their treatment under European international law. Yet, it never gave up on its claim of belonging to the European international law in order to continue benefiting from the advantages of this system.

A common theme in existing scholarship is to explain the perpetuation of unequal treatment of the Ottoman Empire with Istanbul's inability to fulfil all the necessary criteria, the so-called "standards of civilization," required for membership in the European imperial club.⁹ The language of civilization as a basis of new European inter-imperial relations was something that the Ottoman Muslim elite preferred and embraced because it meant transcending the Christian prejudices of European publics and elites. In fact, the Ottoman government used the language of civilization in gaining the support of British and Russian empires against the challenge of Egyptian government Mehmet Ali Pasa in the 1839-1840 crisis by depicting Mehmet Ali's control in Arab provinces as a rule by a less civilized Oriental government.¹⁰ Those who argued that the Ottoman Empire of the 19th century failed to fulfill the necessary requirements of the European civilization, and therefore didn't deserve equality, refer to weakness of Ottoman administration and military power, oppression of Christian minorities, or the despotism of its ruler. Multiple treaties signed between the Ottoman Empire and European powers focus on assurances that the Ottomans will grant equality to Christians subjects of the empire as the key criteria of demonstrating civilization. Treaties giving European powers the right to interfere in Ottoman sovereignty in order to protect the rights of Christians further politicized religious difference between the Muslim political elites and their Christian citizens precisely when the official Ottomanist discourse of civilization and reform were aiming to transcend these religious identities.

Examining the history of unequal treatment of the Ottomans in international law from the perspective of Ottoman imperial bureaucrats and Muslim intellectuals, however, presents a different narrative of the roots of the problem. The Ottoman government claimed that it had fulfilled the criteria of civilized imperial rule and therefore deserve equal treatment. Ottoman references to the European law of nations exhibited a more confident familiarity with its norms and rules in the second half of the 19th century, and used these norms to condemn European treatment of the Ottoman polity. Ottoman intellectuals began to indict European powers, discerning that it was, in fact, European religious and racial prejudice that led

⁹ Gerrit Gong, *The Standard of Civilization in the International Society*. (Oxford: Clarendon Press, 1984). Thomas Naff, "The Ottoman Empire and the European States System," in *The Expansion of International Society*, ed. Hedley Bull and Adam Watson (Oxford: Oxford University Press, 1985)

¹⁰ Ozan Ozavci, *Dangerous Gifts: Imperialism, Security, and Civil Wars in the Levant, 1798-1864*. (Oxford University Press, 2021)

to the “sick man of Europe” discourse stigmatizing the Ottomans as uncivilized empire, and legal imperialism that relied on this language.

Long Trajectory of the Ottoman involvement with European law of Nations

Thus, any history of the Ottoman diplomacy in the 19th century has to start with correcting the multiple layers of scholarly assumptions upon which the myth of the incomplete 1856 entry of the Ottoman Empire into the Eurocentric imperial order is founded. The first assumption of this myth posits that, before entry into European international law, the Ottoman Empire was an Islamic polity and, due to its Islamic-ness and the power of sharia, the Ottomans did not take the European state system seriously. Hence, it is assumed that the Ottomans had to be defeated and humiliated throughout the 18th century for them to eventually abandon an Islamic legal outlook and norms in order to avoid wars with more superior European imperial forces. The Ottomans were expected to deny their presumed Muslim-ness to be accepted into the European system, as there could not be any shared lineage or compromise between Islamic and Western diplomatic traditions. This myth of an Islamic Ottoman empire is coupled with the assumption that Europe could transcend its Christian cultural and legal roots and background for a more secular and universal vision of diplomacy and international law, while the Ottomans could not transcend their presumed Islamic legal obligations and had to be forced to do so.

Despite claims concerning the otherness of the Ottoman polity vis-a-vis European diplomacy, the Ottoman polity had been closely linked to the evolving diplomatic culture of European empires since the 17th century. Ottoman rulers and bureaucrats were educated in Islamic legal texts, history and religious traditions, but their education and worldview were never limited to one single textual tradition and they did not build an empire in order to adhere to a certain set of religious prescriptions. More importantly, the Ottoman empire never followed a stereotyped program of Islamic international diplomacy, because such a system of Islamic international order did not exist. After the conquest of the Mamluk Sultanate in Egypt in 1517, the Ottoman empire ruled over Mecca, Madina, Jerusalem, Damascus, Cairo and many other distinguished Muslim majority cities hosting educational institutions and sacred pilgrimage sites. Ottoman rulers protected and respected Muslim legal traditions, which had been transmitted from one generation to the next through educational institutions. But, there was no concert of Islam or a system of Islamic empires that they were a member of. There were not any mid-sized or great kingdoms with Sunni Muslim dynasties around the Ottoman domains, partly because of the success of the Ottoman empire in incorpo-

rating and ruling over the large Muslim populations of Near East and North Africa. The Ottoman Empire's relationship with the Shia dynasty in Persia and the Sunni dynasty in Morocco did not constitute a regional Islamic order. The closest to an alternative world order to that which emerged in Europe after the 18th century may have been a group of post-Mongolian empires in Asia extending from China to India, Central Asia, Persia and which included the Ottomans. In the 16th and 17th centuries, there were multiple Muslim dynasties in Eurasia that could trace a biological, political and intellectual lineage to Chinggis Khan. There was also a set of norms that regulated the relationships among these dynasties that held to an ideal of universal empire. By late 18th century, however, the legacy of the post-Mongolian empires had also faded, and the Ottoman relationship with empires in Persia, ruled by a Shia Muslim dynasty, would not be sufficient to constitute an alternative diplomatic order to the one that the Ottoman elite began to see developing in Europe in the early 19th century.¹¹

The distinction between *Darul Islam* (lands ruled by Muslim rulers according to Sharia) and *Darul Harb* (lands outside of this realm) existed in various legal texts, and had been a topic of reference in juridical cases, such as issues dealing with Mediterranean piracy and slavery practices, conduct of warfare and norms concerning the prisoners of war. Any scholars looking at the richness and details of Ottoman imperial relations with European empires would recognize, however, that these legal terms could not explain the complexity of Ottoman diplomacy in the early modern period. Ottoman treaties with other polities in Europe followed an imperial diplomatic language that transcended any binary terms used by scholars of jurisprudence. As William Smiley's work on the changes in the rules of exchanging war captives in Ottoman-Russian wars illustrate, the diplomatic culture of Ottoman government on issues of the conduct of war and peace evolved in harmony with the practices of their Russian counterparts without abandoning Muslim legal tradition.¹²

One frequently repeated misconception is the assumption that the Ottoman Empire belonged to and represented an Islamic Empire hostile to the norms of post-Westphalian European political order. Muslim societies in large areas of Eurasia and Africa shared madrasah curricula, religious rituals, and Sufi order networks and lineages across imperial borders. Yet, the existence of cultural commonality and a set of shared legal and religious values should not be taken as a sign of Pan-Islamic solidarity or a separate Islamic civilization in the 17th or 18th centuries collaborating with intent to conquer Europe. In no point in its history did the Ottoman Empire and their Muslim neighbor to the East in Persia unite to wage holy war against non-Muslim dynasties such as Russia. Muslim empires and sultanates were too divided

¹¹ Ayşe Zarakol. *Before the West: Rise and Fall of Eastern World Orders*. (Cambridge University Press, 2022)

¹² Will Smiley, Freeing "The Enslaved People of Islam": The Changing Meaning of Ottoman Subjecthood for Captives in the Russian Empire" *Journal of the Ottoman and Turkish Studies Association*, Vol. 3, No. 2 (November 2016), pp. 235-254.

by local interests and intense competition to foster the development of a true Muslim solidarity. By the late 18th century, the Ottoman Empire was the largest and most powerful of approximately thirty dynasties ruling different parts of Muslim societies. Given the transportation and communication technology in the second half of the 18th century, it was impossible to have an overarching Muslim international system tying together various dynasties from Nigeria and Morocco to Aceh. Due to its location and the intensity of commercial, military and human links, the Ottoman's relationship with European empires remained more significant than their diplomatic ties with Muslim dynasties. In short, there was no competing regional or civilizational Muslim political or diplomatic order that the Ottoman Empire could claim membership to when compared to the concert of Europe in the 19th century.¹³

The Ottoman Empire, throughout its long history, often had good relations, peace treaties and trade with different Christian monarchies, and never used a generic category of 'infidels' to describe all European empires. Some could be neighbors and friends with peaceful relations and treaties, and others were enemies. When protracted wars in Europe, as well as in Eastern frontiers with Persia, heavily taxed the Ottoman central treasury without producing any tangible benefits, the Ottoman elite began to prefer peaceful treaties with neighboring empires over waging war. This preference for peace was also reflected in the continuation of unilateral trade capitulations, such as the ones given to France (1569), England (1580), and the Netherlands (1612). These capitulations, privileges of trade granted by the Sultan to merchants of a particular country, encouraged an increase in mercantile relations and cross-cultural contact. Ottoman domains and major cities including Istanbul hosted thousands of merchants hailing from other empires whose legal affairs often involved diplomatic intermediaries and procedures. The Ottomans established alliances with Christian dynasty-ruled empires, such as with France in the 16th century. In 1740, they entered into an alliance with Sweden against Russia. There were considerations of Muslim legal customs during these alliances with Christian communities and kingdoms, as there were debates among Europeans with regard to their treaties and alliances with non-Christians. But, we should not forget the complexity of the Ottoman legal traditions which include canonic law (*kanun*) that transcended Sharia without necessarily contradicting it, and the immensely rich reinterpretations of Sharia according to the changing condition and contexts. Jurists noted that the Sultan could establish an alliance with a Christian monarch for the order of the state (*Nizam-i mülk*). Towards the end of the 18th century, the Ottoman Empire concluded more alliance treaties with other European kingdoms and empires. Objections by some jurists to the terms of the agreement were responded to by the Sultan and *Shaikh-ul Islam* stating that this was for the interest of the state and it became a common practice, as seen in the alliances with Sweden in

¹³ John Obert Voll, "Islam as a Special World-System," *Journal of World History* 5, no. 2 (October 1994): 213-226, 219-220.

1789, Prussia in 1790, Russia in 1798, Great Britain in 1799 and with the Kingdom of Two Sicilies in 1799.

The customary law that characterized the Ottoman treaties required that, when there was a peace treaty, its terms would be respected. An old Islamic legal clause suggesting that treaties with infidels can never be permanent, and must have a time limit, bore similarity to rules common in Christian Europe in their own dealing with infidels, and these rules were often subject to interpretation and change. Upon establishing a peace treaty, the Ottoman would instruct frontier military forces not to make any incursions without permission of the central government, and Habsburgs and Venice could appeal to a peace treaty with Istanbul to challenge Muslim corsairs in Mediterranean taking their subjects as hostages.¹⁴ The Ottomans also expected that other empires would honor their oaths per customary law. In the 1699 Carlowitz Treaty Ottoman diplomats displayed great awareness of European laws in drafting the peace treaty following their defeat by Poland, Russia, Austria and Venice. The Ottoman-Russian Treaty of 1720 did not have a time limit. The treaty with the Habsburg Empire in Belgrade signed in 1739 had a 25-year limit. It is clear that the Ottomans tried to obtain a more durable peace with its European imperial neighbors, especially after the Ottoman government's recognition of the limits of their capacities to mobilize armies strong enough to defeat the Russian and Austrian empires.¹⁵

Critical historical accounts of the origins of modern international law note that our current norms of laws among nations initiated as a regional European law of nations, as there were different regional orders and legal traditions in other parts of the world, such as East Asia. Eurocentric law was universalized through the expansion of European empires and long-term European/Western political, economic and intellectual hegemony in the rest of the world. Ottoman engagement with this European law, however, goes further back in history when compared to European empire's engagement with Chinese or Japanese states. Throughout the 18th century, the Ottoman government accepted permanent embassies from Europe and sent non-permanent embassy delegations to different European capitals. Ottoman embassy delegations in Europe began to show interest in the developments in these capitals beyond the simple conduct of diplomatic affairs. For example, the head of the Ottoman embassy delegation to Paris in 1721, Yirmisekiz Mehmet Çelebi, wrote a report on his observation of the culture, arts, science and developments in Paris. Other Ottoman Embassy missions produced travel accounts about the important military and technological developments in Europe.¹⁶ Initially, Ottomans relied on Italian and Latin as a language of diplomacy,

¹⁴ Will Smiley, "Fetva Diplomacy: The Ottoman Şeyhülislam as Trans-Imperial Intermediary." *Journal of Early Modern History* 19, no. 2-3 (2015): 199-221.

¹⁵ Virginia Aksan, *An Ottoman Statesman in War and Peace: Ahmed Resmi Efendi, 1700–1783*. (Leiden: Brill, 1995); Virginia Aksan, "Ottoman Political Writing, 1768-1808" *International Journal of Middle East Studies* 25, No. 1 (1993): 53-69

¹⁶ Yirmisekiz Çelebi Mehmet Efendi, *Paris' te bir Osmanlı sefiri: Yirmisekiz Mehmet Çelebi'nin Fransa seyahatnamesi*. (Türkiye İş Bankası Kültür Yayınları, 2012)

thanks to the expertise of Greek dragoman families whose members were educated in these languages or had studied in Venice. Towards the end of the 18th century, French became more common as a diplomatic language.

Despite the Ottoman Empire's preference for peaceful relations, the Empire spent the greatest part of the 18th century embroiled in frequent and costly wars with the Russian and Habsburg Empires.¹⁷ There were more than seven major wars between the Ottoman Empire and their neighbors in Europe. The process itself allowed all three empires to revise and reform their diplomatic visions and treaty cultures. A similar set of frequent, costly and unpopular wars characterized Ottoman-Iranian relations until the mid-18th century, with several border cities changing hands but ultimately returning to their pre-18th century status.¹⁸ These imperial wars could not be ascribed to a clash of civilizations between Christian and Muslim societies or between Shia and Sunni dynasties, even when there were references to religious identity by the warriors or prisoners of war. More importantly, wars were not the only form of interaction among these well-established empires: they also developed cultural interactions, economic ties and diplomatic norms. For example, Ottoman, Russian and Habsburg notions of the rights of prisoner of wars, how to exchange POWs or provide reparations, evolved into shared diplomatic customs without this necessarily leading to late 19th century European international law.¹⁹ Among the many wars fought during this period, the Ottoman-Russian War of 1768-1774 stands out as a key turning point, ending in the defeat of the Ottoman side.²⁰ This war partially emerged out of the Ottoman objection to Russian control of Poland, but the results altered the entire geopolitical balance in Eastern Europe. With the Treaty of Küçük Kaynarca of 1774 the Crimean tributary of the Ottoman empire, with its Muslim majority population, was given independent status under Russian imperial protection. After the 1774 defeat, Ottomans accepted Russian naval access to the Black Sea, as well as formal treaty recognition of Russia's protection of the Orthodox Christian populations of the Ottoman Empire in return for Russia recognizing the Ottoman Sultan's status as spiritual Caliph of Muslims in Crimea. When Crimea was eventually annexed by the Russian Empire in 1783, Muslim jurists discussed the freedom of Crimean Muslims to practice the legal aspects of their religious tradition under the rule of non-Muslim Russian monarch, but no solution was offered beyond making the most of their rights given to them by their Russian sovereign or emigrating to Ottoman

¹⁷ Major battles were: Russo-Ottoman War of 1710-1711; Russo-Austrian-Ottoman war of 1735-1739; Russo-Ottoman War of 1768-1774; Austrian-Ottoman War of 1787-1791; Russo-Ottoman war of 1787-1792. There were also five different Ottoman-Iranian Wars during the 18th century.

¹⁸ For Ottoman-Persian relations, see Stanford Shaw, "Iranian Relations with the Ottoman Empire in the Eighteenth and Nineteenth Centuries" in *Cambridge History of Iran Vol. 7: From Nadir Shah to the Islamic Republic*, ed. Peter Avery, Gavin R. G. Hambly and Charles P. Melville (Cambridge: Cambridge University Press, 1991), 297-313.

¹⁹ Will Smiley, *From Slaves to Prisoners of War; the Ottoman Empire, Russia, and the Making of International Law*. (Oxford University Press, 2018)

²⁰ For details of these wars, see Virginia Aksan, *Ottoman Wars 1700-1870: An Empire Besieged* (Harlow: Pearson Education Limited, 2007).

lands.²¹ As a Muslim Sultan in Istanbul ruled over Orthodox subjects, a Christian monarch could likewise rule over Muslim subjects in Crimea and elsewhere in Russia.

During the Napoleonic Wars, the Ottomans initially maintained neutrality and kept its diplomatic ties with Revolutionary France. After the unexpected French invasion of Egypt in 1798, however, the Ottoman Empire not only established a firm alliance with the British Empire, but could have easily formed an alliance with the Russian Empire.²² When the Ottomans declared war against the French Republic upon the French invasion of Egypt, the text comfortably refers to “*hukuk-ı milel*” (law of the nations) next to a Muslim obligation for jihad and *gaza* to defend the imperial domains.²³ French invasion was described as a violation of the existing law of nations.²⁴ When the Ottoman government made a treaty with Russia in 1805, they again referred to *Hukuk-u meriye-i milel* (Existing law of nations) and *Avrupa'da muvazenei mülkiyenin husul ve istikrarı* (Emergence and stability of the balance of power in Europe). Ottomans frequently referred to international law when they objected to Russian interventions in the affairs of their Empire. While benefiting from its alliance with Britain in defeating France, the Ottomans government kept making references to international law, diplomacy and norms, such as the Eurocentric terminology of *status quo ante bellum*. After that point, many other texts, such as Lutfi's history of 1827, referred to “*hukuk-u düvel*,”²⁵ indicating Ottoman awareness and embrace of Eurocentric international law.

While the Ottoman Empire was firmly part of the European system of inter-imperial relations, it also had relations with Muslim kingdoms. For example, during the Napoleonic wars, the Sultan of the Indian principality of Mysore asked the Ottoman Sultan's aid against the East India Company, with which Mysore was engaged in a battle with support from the French republic.²⁶ Tipu Sultan's letters to the Ottoman Sultan illustrate his own synthesis of hybrid legitimacy as a Muslim ruler, firmly grounded in a Muslim and Turco-Persian imperial and legal traditions, and an awareness of European monarchies and their global maritime presence.²⁷ In his delegations to Istanbul, Tipu Sultan referenced Muslim notions of solidarity against unjust non-Muslim attacks, noting his struggle against the British “infidels” who did not

²¹ For the importance of Küçük Kaynarca Treaty, see Kemal Karpat, *The Politicization of Islam: Reconstructing Identity, State, Faith, and Community in the Late Ottoman State* (Oxford: Oxford University Press, 2001).

²² Kahraman Sakul, “Ottoman Attempts to Control the Adriatic Frontier in the Napoleonic Wars” in *The Frontiers of the Ottoman World*, ed. Andrew Peacock (Oxford: Oxford University Press (Proceedings of the British Academy), 2009), 253-71.

²³ Cemil Bilsel, “Devletler Hukuku mu? Devletlerarası Hak mı?”, *İstanbul Üniversitesi Hukuk Fakültesi Mecmuası*, Vol: 6, No: 4, (Istanbul, 1940), s.639. Ahmet Cevdet Paşa, *Tarih-i Cevdet*, Vol: 6, (İstanbul, Üçdal Neşriyat, 1974), s.552. For pre-19th century Muslim conceptions of the law of nations, see Majid Khadduri, *The Islamic Law of Nations: Shaybani's Siyar –Siyarü'l Kebir*, (Baltimore, Johns Hopkins University, 1966).

²⁴ Ahmet Cevdet Paşa, *Tarih-i Cevdet*, Vol: 6, s.549-550. He used the term: “beyneddevleteyn mer'i olan kavaid-i mutebereye mugayir bir keyfiyet: an act violating the accepted rules that exist among the states”.

²⁵ Bilsel, “Devletler Hukuku mu? Devletlerarası Hak mı?”, s.639-640.

²⁶ Mohibbul Hasan, *Waqai-i Manazil-i Rum: Tipu Sultan's mission to Constantinople* (Delhi: Aakar Books, 2005).

²⁷ Kate Brittlebank, *Tipu Sultan's Search for Legitimacy: Islam and Kingship in a Hindu Domain* (Delhi: Oxford University Press, 1997).

respect the religious values and traditions of Muslim populations. In a response affirming an imperial vision, the Ottoman Sultan urged the Tipu Sultan to prefer peace over war in his diplomatic dealings with the British East India Company.²⁸ The Ottoman letters to Tipu Sultan further emphasized that the French Republic, and not the British Empire, should be considered an enemy to Muslims on account of the French violation of international law as seen in the invasion of Egypt and annexation of the Venetian Republic.²⁹ More importantly, the complex patterns and relations between revolutionary France, the Ottoman Empire, its province of Egypt, and the Mysore Sultanate in India illustrate the fact that, in late 18th century notions of the law of inter-imperial relations, the borders between civilized and uncivilized, Christian and Muslim, and republic and empire, were neither clear nor settled. In that context, French forces were defeated by the efforts of both the British navy and Ottoman forces. Admiral Nelson was awarded by an Ottoman Medal of Honor for his contribution to the defeat of French forces in Egypt.

The Ottoman Empire was invited to the Congress of Vienna by Metternich, but decided not to join due to fear that Congress may use multilateral treaties to force the Sultan's government into giving concessions to Russia on bilateral disputes between two empires. After the Congress of Vienna, when the Ottoman Empire was challenged by secessionist revolts in the Balkans, Ottomans continued referring to international law and European order built at the Vienna Congress to protect their sovereignty from nationalist revolts and imperial interventions. Ottoman military weakness made them prioritize both great power alliances within Europe against Russia and international law as a means to defend the existing territories ruled by Istanbul. By the 1830s, as diplomacy and international law became a means to defend the integrity of inherited Ottoman realms and territories, diplomatic bureaucracy was gradually institutionalized and became an area of professional expertise. The government's Translation Bureau trained diplomats and staff experts, some of whom began to work for the newly redesigned Ministry of Foreign Affairs in 1836, in European diplomatic language and customs. Permanent embassies were established in Paris, London, Berlin, Vienna, Athens, Brussels, St. Petersburg, Stockholm, Teheran, Turin, and Washington. In terms of diplomatic cultures, cosmopolitan Ottoman bureaucrats and consular officers, which included Greeks and Armenians in addition to Muslims, were familiar with the legal and diplomatic norms of their European counterparts.

²⁸ For a discussion of the significance of this Indian-Ottoman correspondence, see Azmi Özcan, "Attempts to Use the Ottoman Caliphate as the Legitimator of British Rule in India" in *Islamic Legitimacy in a Plural Asia*, ed. Anthony Reid and Michael Gilsenan (Abington: Routledge, 2007), 71-80.

²⁹ Yusuf Bayur, "Maysor Sultan Tipu ile Osmanlı Padişahlarından Abdulhamid, III. Selim Arasındaki Mektuplaşma (Correspondence between Tipu Sultan of Mysore and Ottoman Sultans Abdulhamid and Selim III)," *Belleten* XII/47 (1948): 617-654.

Islam, Christianity and the Discourse of Universal Civilization in Ottoman Engagement with European International Law

There is a growing scholarly questioning of the conventional historical narrative of the modern European imperial inter-state legal system based on respect for sovereignty originating with the Westphalian treaty. European empires often intervened in the domestic affairs of non-European polities such as the Ottoman empire despite the principle of non-interference in sovereignty, in a practice Stephen Krasner terms Organized Hypocrisy.³⁰ It may not be a coincidence that the first European international law book translated into Ottoman language was Vattel's book on the natural law approach to international law. Vattel argued against the intervention of European Empires in other territories and did not distinguish between civilized and barbarian states. As Serdar Palabıyık has demonstrated, Mehmet Hüsrev Paşa may have requested Vattel's translation just two years before the Tanzimat reform proclamation of 1839, because he prioritized military reforms over self-civilizing reforms appealing to a European idea of civilization championed by his rival Mustafa Reşit Paşa. Vattel's international law book would help make arguments against European imperial intervention in Ottoman domestic sovereignty in the name of civilization, as experienced with Russian and British empires during the Greek rebellion.³¹ Yet, at the same time, the Ottoman elite would present itself as a reforming civilizing empire in order to invite support, and even interventions on their behalf, against Egypt in late 1830s and against Russia in the 1850s and 1870s.

Ottoman lawyers and bureaucrats preferred the term "*hukuk-u düvel*" (the law of states, not the law of nations) as the translation for "international law", and saw international law as a necessary legal tool to defend imperial domains composed of many ethnicities and religious communities.³² Scholars like Ali Şahbaz Efendi argued that the European empires did not see the Ottomans as a full and equal member of the law of states until the Paris Peace Conference of 1856, primarily on account of their Christian prejudice, as they only considered Christians worthy of full rights. As with their European counterparts, Ottoman jurists, diplomats, state functionaries historically considered the religion of the dynasty of the empire important in considerations concerning the norms governing treaties and alliances. As Mohammad Fadel demonstrates in his chapter in the first part of this volume, Muslim jurists had been in the habit of deploying the *dār al-Islām* / *dār al-harb* distinction for centuries. Such legal texts were taught in Ottoman madrasas until the 19th century, while

³⁰ Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton University Press, 1999)

³¹ Emerich de Vattel's *Law of Nations* was translated in 1837 (see Palabıyık, page 235). Baron Ottokar Schlechta, who worked at the Austrian Embassy in Istanbul, also translated a two volume work on international law. See Mustafa Serdar Palabıyık, 'The Emergence of the Idea of "International Law" in the Ottoman Empire before the Treaty of Paris (1856)', *Middle Eastern Studies* 50 (2014), 233–251. (Page 235)

³² Ali Şahbaz Efendi, *Mufassal Hukuk-ı Düvel*, vol: 1, (İstanbul, Bağdadlıyan Matbaası, 1324/1908), s.3. James Lorimer, *The institutes of law: A Treatise of the Principles of Jurisprudence as Determined by Nature*. (Edinburgh: T. & T. Clark, 1872)

the Ottoman government displayed considerable ‘flexibility’ and ‘pragmatism’ in their actual legal and diplomatic relations with other states, because the Ottoman ruling elite did not treat such text as absolute ideological guides to conduct their inter-imperial affairs. There was a gradual transition to the language of civilization in early 19th century, transcending the earlier distinction between Darül Islam and Darül Harb, asserting the common norms and visions that the Ottomans shared with other empires in Europe, and minimizing their exclusion based on religion.

Ironically, in late 19th century, just when the Ottoman embrace of the discourse and vision of civilized empires was at its peak, European international legal experts began to recategorize the Ottomans as not fully civilized or semi-civilized. The rhetoric of ‘civilization’ was ubiquitous in the nineteenth and early twentieth-century international legal discourse, with multiple competing interpretations of the location of the Ottomans in the presumed hierarchy of civilizations, and Ottomans jurists, diplomats, and state functionaries also relied upon these new epistemic categories to interpret the ordering of the earth among the various empires. In other words, just when the Ottoman elites abandoned the Darül Islam and Darül Harb distinction, they had to reconceptualize their role within a new categorization in which Europe was presented as a land of superior civilization while the Ottomans were stigmatized as semi-civilized, hovering above other parts of the world characterized as territories of barbarism and savagery. When this distinction between Christian and Muslims in terms of their status in international law began to be formulated as a distinction between civilized and semi-civilized states, as it was the case in James Lorimer’s 1872 book, Ottoman legal scholars consistently rejected categorization of their empire as semi-civilized.³³

Ottoman intellectual and political elites’ adoption of the discourse of civilization was not an insincere window dressing intended just to impress European diplomats and sway public opinion. Civilizationism became the most powerful reform ideology, especially among the constitutionalist Ottoman intellectuals. In the early stages of the Greek War of Independence, some Ottoman intellectuals interpreted the Greek success employing the terms of civilization and barbarism inherited from Ibni Khaldun’s work, ar-

³³ Ali Şahbaz Efendi, *Mufasssal Hukuk-ı Dîvel*, Vol: 1, 1324/1908, s.15. İbrahim Hakkı, *Tarih-i Hukuk-ı Beyneddüvel* (Istanbul: Karabat ve KAsbar Publishing House, 1303 (1885) ; Ahmet Selahattin, *Hukuk-i Beyn el-Düvelin Mukaddimat-ı Nazariye ve Safahat-ı Tekamüliyesi* (Istanbul: Kanaat Matbaası, 1330 (1912). As the Ottoman government instituted a Law School (Mekteb-i Hukuk), which began to teach international law to its students, there were Ottoman textbooks written by some of the instructors. In 1884, Hasan Fehmi Paşa, instructor in the law school, published *Telhis-i Hukuk-u Dîvel* (Summary of the Law of Nations, with reliance on the books by Vattel, Bluntschili and Calvo. Hasan Fehmi’s textbook included a lengthy discussion of the capitulations as this was an issue that every Ottoman student of international law had to be highly knowledgeable about. There were other Ottoman textbooks written by İbrahim Hakkı (*Tarih-i Hukuk-u Beyneddüvel- History of the International Law*) and Ahmet Selahattin (*Hukuk-i Beyn el-Düvelin Mukkademat-ı Nazariye ve Safahat-ı Tekamüliyesi* (Theoretical Introduction and Evolutionary Stages of the International Law).

guing that Ottoman Muslims became too civilized and thus too urban and too weak, while Greeks remained true to their nomadic and militaristic barbarian roots. Considering that Europeans and Greeks were depicting Ottomans as despotic and uncivilized, and Greece as a cradle of European civilization, we can see the encounter of different epistemological paradigms. Here, we should note that Ibn Khaldun's theory of sociology did not necessarily emanate from Islamic legal texts, and was just one influential and cyclical theory of interpreting the rise and decline of dynasties in history. After the final victory of the Greek war of independence with European support, Ottomans elite gradually began to use the term "civilization" in conversation with the European interpretation of the term. Ottoman bureaucrats coined a new term, *medeniyet*, as a translation of the European term "civilization". By the 1850s, new meanings of the term had been well established through references to "the civilized nations," "the civilized world," and "the progress of civilization." No Ottoman scholar referred to Europe as Darül Harb after this crucial epistemic paradigm change in imagining and ordering the world.

Both the Ottoman bureaucrats and Muslim defenders of civilizational visions were aware of the controversial international politics of this term and embraced it self-consciously. Munif Pasa, a member of the Ottoman bureaucratic elite in the 1860s, noted that it was the Chinese Empire's lower level of civilization that caused their large army to lose battles against the smaller forces of the British Empire in the Opium Wars. Namık Kemal, in his 1871 article on "civilization," asked, in reference to colonized countries in Asia and Africa: "Are these uncivilized (*gayri-mütemeddine*) nations able to preserve their freedom against so many civilized nations?" Namık Kemal added that, by resisting the adoption of the "lessons, teachings, machines, progresses, [and] innovations" as the Indians or Algerians had, for example, one would lose his freedom and come under the authority of a foreign power—something that is in no way suitable for human dignity." Namık Kemal's generation also decoupled universal civilization from the European cultural context in noting that:

Just as we do not need kebabs in Chinese fashion to be civilized (*temeddün*), we need not imitate blindly European dance or marriage principles. Thus our hope is this: That if appropriate action is taken, given the salvific principles of the Islamic *Şeriyat* and the situation and our people's extraordinary ability that we have to hand, in the Ottoman lands, which in the times of the Ancient Egyptians, and Chaldeans and the Jews and Iranians and Arabs, and Greeks were six or

seven times greater in terms of places of intellectual instruction and were centers from which progress was transmitted—through our illustrious deeds it will be possible to bring about a civilization in a way that will evoke the world’s admiration.³⁴

In short, more than half a century before their presumed inclusion into the European diplomatic order in 1856, the Ottomans were referring to European international law in order to protect the empire from foreign attack and establish peace and stability in respect to their territorial integrity and sovereignty. A presumed Islamic cultural backdrop never prevented the Ottoman government from embracing, contributing to or adapting to the emerging Eurocentric discourse of civilization that gave legitimacy to international law and diplomacy. On the contrary, Ottoman elites began to criticize European empires in the name of civilization, for engaging in Christian solidarity against them.³⁵

Ottoman diplomacy with European powers became seen as a way to preserve the integrity and unity of the Ottoman empire. But this should not simply be interpreted as a compensation for military weakness, or a defensive insurance policy. After all, all European empires similarly needed to engage with European diplomacy to make alliances and receive support and aid from other empires in working against their rivals. Reforms in the conduct of Ottoman diplomacy, such as adopting a European style ministry and embassies, was also not a betrayal of an idealized and normative Islamic tradition. 19th century reformist Ottoman officials did not perceive these reforms as signifying abandonment of a well-established Islamic diplomatic system. The diplomatic norms of European imperial domains had been evolving over many centuries and the Ottomans were not newcomers holding a completely different set of values and norms. Thus, it is mistake to see this process as a gradual erosion of the role of Islamic law in Ottoman diplomacy in favor of secular European international law. Ottoman elite did not see any contradiction between their respect for the tradition of Islamic law and their embrace of Eurocentric international law. On the contrary, a certain sense of Muslim identity and attention to Muslim public opinion domestically and globally played a bigger role in Ottoman considerations of diplomacy in the late 19th and early 20th centuries, not because there was a revival of suppressed shariah-minded decision making, but due to racialization of Muslim identity in international law and politics, as well as concerns with Muslim

³⁴ Cemil Aydın, *Mecmua-i Fünûn ve Mecmua-i Ulûm Dergilerinin Medeniyet ve Bilim Anlayışı* (Istanbul University, Institute for Social Sciences, MA Thesis, 1995); Kevin Reinhart, “Civilization and Its Discussants: *Medeniyet* and Turkish Conversion to Modernism,” Denise Washburn and Kevin Reinhart, ed., *Converting Cultures: Religion, Ideology, and Transformations of Modernity*. (Leiden: Brill, 2007): pp: 267-290.

³⁵ Roderic Davison, *Nineteenth Century Ottoman Diplomacy and Reforms*. (Istanbul: ISIS Press, 1999) Carter Findley, “The Foundation of the Ottoman Foreign Ministry.” *International Journal of Middle Eastern Studies* 3 (4), 1972: 388–416.

humanitarianism. Ottoman acceptance and protection of large populations of Muslim refugees from the Russian empire, often described using the Islamic term *muhajir*, is an example of the significance of increasing Muslim identity and values in Ottoman inter-imperial relations in a period when they were fully embracing European law of nations and civilizationist visions.

Racialization of Muslims in International Law

Throughout the 19th century, the Ottoman elite held an abiding interest in international law and inter-imperial diplomacy as a set of acceptable norms that would preserve the sovereignty and integrity of the empire. In the two decades after the Crimean Wars and Treaty of Paris, reformist Ottoman elite perceived their policy of self-civilizing reforms and membership into European diplomatic order as beneficial for the peace and prosperity of their domains. During Ottoman Sultan Abdulaziz's 1867 visit to Europe, where he was welcomed by the monarchs of the French, British, and Austrian-Hungarian Empires, as well as the Belgian and Prussian Kingdoms, the Ottomans Sultan and delegation noted the high economic well-being and industrial progress of European empires, and expressed optimism that their reforms could close the gap between the Ottoman and European states.³⁶ In this period, the Ottoman Empire borrowed money from European creditors for expensive projects and initiatives. Sultan Abdulaziz, like his father Sultan Abdülmeçid, received the Order of Garter, the highest honor a foreign monarch could receive from the British Queen. The European orientation of Ottoman diplomacy could also be seen in the opening ceremony of the Suez Canal in 1869, hosted by the Khedive of Egypt under Ottoman sovereignty. The ceremony had guests from European royal houses, and the Khedive declared that Egypt, an autonomous part of the Ottoman Empire, was becoming part of Europe thanks to the opening of the Canal.

Yet, concurrent with the promised legal equality of the Ottoman Empire, pursued through self-strengthening reforms undertaken in the name of advancing the empire's level of civilization, there emerged a different discourse stigmatizing the Ottoman state as semi-civilized empire ruled by a Muslim dynasty, and this discourse held legal implications for the equal treatment of empire in inter-imperial diplomacy.³⁷ Independence wars in the Balkans, from Greece to Serbia and Bulgaria, were fodder to the developing image of a semi-civilized barbaric Muslim Ottoman empire unworthy of inclusion in the European law of nations. The Ottoman elite managed to assert its vision of civilization after Greece became

³⁶ Cemal Kutay, *Avrupa'da Sultan Aziz* (Sultan Aziz in Europe) (Istanbul: Posta Kutusu Yayınları, 1977).

³⁷ Jennifer Pitts, *Boundaries of the International*, book chapters

independent, and in fact managed to receive support from other European empires against internal or external challenges on different occasions.³⁸ There were more Greeks living under the rule of the Ottoman Empire than within the newly independent Greek Kingdom, and these Greek populations were incorporated into the Ottoman reforms as both equal citizens and civil servants and bureaucrats.³⁹ The first Ottoman ambassador to Athens was a Greek diplomat, Musurus Efendi. He survived an assassination attempt in Athens meant to punish him for his unwavering loyalty to the Ottoman Sultan. He was promoted to the rank of Pasha, and served as the Ottoman Empire's ambassador to London from 1850 to 1885.

The Ottoman elite noted the importance of public opinion in Europe around rigid notions of civilized Christian Europe and Muslim barbarism in shaping the pro-Greek independence public opinion. In response, they formulated a more systematic vision for changing the image of their empire in European public opinion, emphasizing a discourse of "civilization" that could re-affirm the values of the Congress of Vienna system. This vision included assurances of equal and fair treatment of all imperial subjects, irrespective of their religious and ethnic differences, and the acceptance of a set of diplomatic norms that would secure a space for the Ottoman Empire in the concert of Europe and contribute to the values of this concert. The Gülhane Imperial Edict (Gülhane Hattı Hümayunu) of 1839, which later became known as the Tanzimat Proclamation, became the clearest indication of an Ottoman vision for a new European-based imperial international society and associated legitimizing discourse of universal civilization. This Ottoman preference for the language of civilization not only inspired domestic reforms and assurance of equal rights to all subjects, but was meant to solidify the state's membership into the European concert and justify support of military and financial assistance from different European empires in key moments of crisis. As part of this new diplomacy of civilization, for example, the Ottoman government successfully depicted Egyptian ruler Mehmet Ali Pasa and his rule as barbaric and uncivilized when contrasted to the civilized rule of the Sultan in Istanbul in order to put French public opinion pressure on the French imperial government supporting Egypt.

The dual and conflicting experience of, on the one hand, the Ottoman government insisting on its legal equality through a discourse of universal civilization and, on the other hand, an increasingly widespread European perception of Muslim Ottomans as not being fully civilized, persisted from the 1840s

³⁸ David Brewer, *The Flame of Freedom: The Greek War of Independence, 1821–1833* (London: J. Murray 2001) C.W. Crawley, *The Question of Greek Independence: A Study of British Policy in the Near East, 1821–1833* (Cambridge: CUP 1973) On Philhellenism, Suzanne L. Marchand, *Down from Olympus: Archaeology and Philhellenism in Germany, 1750-1970* (Princeton, NJ: Princeton University Press, 2003). For the implications of Greek independence in the expansion of European international society, see Yannis A. Stivachtis, *The Enlargement of International Society: Culture versus Anarchy and Greece's Entry into International Society* (Basingstoke: Palgrave Macmillan, 1998).

³⁹ See Eric Weitz, "From the Vienna to the Paris system: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions," *The American Historical Review* 113, No. 5 (2008): 1313-1343, page: 1317.

onwards. The Ottoman Sultan gave protection to the Hungarian and Polish revolutionaries of 1848, including Lajos Kossuth, and therein gained the respect of liberal public opinion in England, which was very Russo-phobic during the late 1840s. Good relations between the Ottoman government and British Empire often also included a Russo-phobic justification, and the advocates for support of the Ottoman Empire often did so with conditions attached, such as internal reforms to improve the rights of Christian subjects and extraterritorial privileges of trade.⁴⁰

It was against this background that the Crimean War started due to the Russian demand for recognition as the protector of Orthodox Christians in the Ottoman Empire. After the initial Russian naval victory against the Ottomans in Sinop in 1853, Britain and France, later joined by the Italian Kingdom of Sardinia, declared war on Russia in March of 1854 as allies of the Ottomans.⁴¹ This long war ended with Russia's defeat. There was Ottoman pride in both its achievements during the Crimean War, and the state's ability to obtain military support from leading European empires. However, within England a minority saw the alliance with the Ottomans a mistake and a betrayal of Christian solidarity. Some of these critics, such as influential Anglican-turned-Catholic intellectual John Henry Newman, referenced Christian-Muslim duality to argue that Russia was a natural protector of Christianity, while the Ottomans represented Muslim barbarism. Despite these critics, there was a predominant belief that British-Ottoman imperial alliance could advance the cause of civilization. Influential pro-Ottoman and Russophobe intellectuals such as David Urquhart contributed to the legitimacy of British-Ottoman alliance with their writings. At the end of the war in 1856, the Paris Peace Conference redefined European international order in reference to the idea of civilization, to one not based on Christianity as previously attempted by the Holy Alliance, and declared inclusion of the Ottoman Empire. As the Ottoman elite saw themselves as part of this European imperial order, during the 1857 Indian revolt, the Ottoman Empire supported the British side.

By the 1880s, the Ottoman government claimed that they had fulfilled all the criteria of the emerging global norms of this Eurocentric imperial order. The notion of civilized empires fostering the peace and prosperity of its subjects and protecting the rights of diverse populations was one of these norms. A new class of international lawyers with different ethnic backgrounds staffed the newly instituted Legal Office at the Ottoman foreign ministry.⁴² Yet, Ottoman diplomats soon realized that, instead of providing them full sovereignty in domestic governance, late 19th-century European international legal

⁴⁰ Nazır, Bayram, *Osmanlı'ya Sığınanlar Macar ve Polonyalı Mülteciler*, (Hungarian and Polish Political Refugees in Ottoman Empire) (YeditepeYayınevi:İstanbul, 2016)

⁴¹ Candan Badem, *The Ottoman Crimean War, 1853-1856* (Boston: Brill, 2010).

⁴² New scholarship highlight how medium powers like the Ottomans (similar to China, Japan, Argentine etc) were more interested in following international law than great powers. See Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History* (Cambridge: CUP 2014) See also Aimee Genell, *Empire by Law : Ottoman Sovereignty and the British Occupation of Egypt, 1882-1923*, (Ph.D. Dissertation, Columbia University, 2013)

practice put extra burdens and restrictions on their governance, and continued to justify unwanted foreign interventions on behalf of Christian minorities and European passport-holding residents utilizing capitulations.

The position of the Ottoman Empire in the European law of nations was never secure and unchallenged. Some European international lawyers noted how the Ottomans were part of both European and Eastern or non-European legal traditions but could potentially be part of the European system if they successfully pursued reforms. As Umut Özsu has demonstrated, the language used to justify extraterritoriality and capitulations in European imperial relations with the Ottomans was later extended to diplomatic relations with China and Japan in the practice of unequal treaties signed with these polities.⁴³ While the Ottomans (and later Chinese and Japanese diplomats) repeatedly noted that the circumstances that led to the initial creation of unequal treaties changed and disappeared when they reformed their legal system to make it compatible with the European system, the European side insisted on renewing the treaties based on continuance of the supposed lower standard of civilization. Towards the end of the 19th century, however, racial ideologies and perceptions prevented equal legal treatment of not only the Ottoman Empire, but also other self-strengthening non-European empires and kingdoms, thus contributing to the formation of race-based geopolitical and civilizational regions precisely when these non-European polities made significant changes in their legal orders to make it ‘civilized’ according to European criteria. In 1899, Japan became the first and only country to negotiate the end of unequal treaties before the end of WWI, and as such it is the exception that proves the rule.

19th century international legal scholars (and practitioners) in Europe fell into the category of polite racism of Europe (compared to the vulgar racism based on skin color-based differentiation of humans categorizing non-Europeans as savages and barbarians), believing in the superiority of Christianity and Hellenistic culture over Muslim, Asian and African cultures. They looked down on the Ottoman Empire’s ability to meet their criteria for ‘civilization’, though what set of criteria was being applied was always ambiguous and impossible to fulfill. Their belief in the superiority of Western civilization accompanied justification of violence by Europeans carried out upon the rest of humanity, including violence against European Muslim populations in the Balkans by emerging Christian Kingdoms such as Greece, Serbia and Bulgaria. Ottoman elites tried to produce a counter-argument to Islamophobia rejecting the claims that their religion was an obstacle to their progress up the ladder of civilization. Hence, Ottoman arguments for international legal equality often included apologetic refutations of European claims of polyg-

⁴³ Umut Özsu, “The Ottoman Empire, the Origins of Extraterritoriality, and International Legal Theory,” in *The Oxford Handbook of the Theory of International Law*, Edited by Anne Orford and Florian Hoffmann (2016), pp: 123-137

amy, slavery, despotism, corruption, fatalism, fanaticism, irrationality and decline in Ottoman and Muslim societies. Together with this apologetic discourse defending the civility of Muslims, it also included a critique that European racism and islamophobia itself a violation of universal principles of civilization.

When we evaluate the writings of Ottoman intellectuals and diplomats, we can detect four major areas of critique. The first major area of Ottoman disappointment stemmed from its struggle to assert its civilized rule and sovereignty over its Christian populations. Even though Tanzimat reforms empowered the Christian citizens of Empire and gave them legal equality, in multiple occasions when there was a mass uprising among Christian minorities, European powers would intervene on behalf these Christian subjects to force the Ottomans to give concessions and privileges, thereby violating Ottoman sovereign rule. Notions of Christian humanitarianism in Europe depicted Ottoman rule as despotic and Islamic, arguing that the Christian powers had a moral duty to intervene and protect Christian subjects. Like all empires, Ottoman rule was not democratic and its citizens had a right to ask for reform or revolutionary change. One problem with European interventions from an Ottoman perspective was not the international pressure to support Christian minorities, but its double standards in the sense that there was no similar pressure put on Christian monarchs following their mistreatment of Muslim subjects in their empires. European interventions in Ottoman imperial governance started with Greek war of independence (1827-1833) and continued in relation to the crises in Lebanon (1860-1861), Crete (1866-1867) and Macedonia (1905-1908). There were also moments of domestic crisis that became fully internationalized in global public opinion from Europe and the US to India, such as the violence in Bulgaria in the 1870s, which indirectly led to the Russo-Ottoman war of 1877-78, and the massacre of Armenians in Eastern Anatolia in the 1890s.

The legal rights of Christian citizens of the Ottoman empire were not any different than those enjoyed by Muslim citizens in the Ottoman empire. Compared to Muslims ruled by European empires, Christian in Ottoman lands had rights of citizenship. As Ussama Makdisi has demonstrated, the Ottoman Tanzimat project of equal citizenship among diverse religious communities was highly successful in the Arab lands of the Empire, even though it faced violent uprisings in areas such as Macedonia and among the Armenian population of Anatolia.⁴⁴ There were thousands of Armenian, Greek and Jewish Ottoman bureaucrats in service to the empire. From an Ottoman elite perspective, this was a sign that the empire was not oppressing the minorities, and European interventions on behalf of the right of Christian citizens of empire violated the state's sovereignty. At the same time, the rights of Christian subjects of the Otto-

⁴⁴ Ussama Makdisi, *Age of Coexistence: The Ecumenical Frame and the Making of the Modern Arab World*. (University of California Press, Berkeley, 2019)

man Empire were assured in multilateral treaties with European powers, such as the Treaty of 1878 concluding the Russo-Ottoman Wars and, legally, European powers had a right to interfere to check on these treaty obligations. The nature of Ottoman reforms giving Christian populations equality with Muslims while recognizing their privileges, and international treaty assurances concerning their implementation served to distinguish Christians from the Muslim majority, and tied their demands for rights within Ottoman system to guardianship and assurances under European powers. As a result, the Ottomanist vision of equal citizenship became a crucial part of the Eastern Question diplomacy after the 1870s, and reforms that aimed to erase the distinction among the subjects/citizens with regard to religion witnessed increasing politicization of Muslim-Christian identities both in domestic politics and internationally. This politicization became a common theme of European islamophobic discourses challenging the legitimacy of Ottoman membership in European law of nations.

Thus, the Ottoman Empire's attempt to be part of concert of Europe through multilateral treaties in order to assure its sovereignty and legitimacy paradoxically had to accompany Ottoman concessions to the same great powers allowing them the right to intervene in the reform process with regard to the status of Christian citizens of the Ottoman Empire. Last but not least, Muslim populations oppressed or threatened by the neighboring empire of Russia, or within the newly independent Balkan states, were forced to migrate to Ottoman domains. This inflow not only changing the population ratio of the Ottoman empire in favor of Muslims, but also strengthened Muslim identity across the empire.

The second major critique of the international law was the imposition of capitulations. Like all nominally sovereign areas, from China, Japan and Siam to Persia, in the second half of the 19th century the Ottoman Empire was subjected to regimes of extraterritoriality, also known as capitulations or unequal treaties, which put restrictions on the sovereign rights of their bureaucracies and monarchs. The best example of this extraterritoriality regime was in the institution of foreign courts in the Ottoman Empire, as the local courts were deemed insufficiently civilized to judge European residents. In 1900, legal cases pertaining to British and other European citizens in the Ottoman Empire were handled in the sixty-six British courts present in Ottoman lands. The British Supreme Court at Istanbul served as the highest court, hearing appeals involving European and Christian subjects.⁴⁵ Most frustrating for Ottoman merchants was the fact that European merchants, as well as resident Christians carrying European passports, benefited from lower taxation guaranteed by the capitulations and thus had competitive advantage over local Muslim merchants forced to pay higher taxes. The formation of the Public Debt Administration, an

⁴⁵ Turan Kayaoglu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge: Cambridge University Press, 2010). See also Richard S. Horowitz, 'International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century', *Journal of World History* 15 (2004), 445–486

international debt collection agency, in Istanbul in 1876, following Ottoman financial bankruptcy, further handicapped and restricted Ottoman sovereignty.

Ottoman domains and populations were not in an isolated and distant island, cut off from the rest of the world. Hundreds of thousands of merchants, soldiers, refugees, pilgrims and others traveling across Ottoman domains and other imperial domains, necessitating diplomatic and bureaucratic paperwork with regard to their economic, religious, social family and political life. In addition to European residents and non-Muslims requesting legal protection from European consulates per privileges bestowed upon them by the capitulations, Muslim imperial subjects from India or Russia could also appeal to the consulates of their respective imperial sovereigns in legal disputes within Ottoman realms. This situation necessarily created new challenges for the Ottoman bureaucracy and legal sovereignty.⁴⁶

Originally, Ottoman capitulations derived from different backgrounds in the pluralist legal traditions of both parties prior to the 18th century. However, by the second half of the 19th century, the Ottoman Empire was not allowed to negotiate these unequal treaties, no matter how objectionable and offensive they became, due to the globalized logic of Eurocentric civilizational hierarchies. Until the end of the empire, the Ottomans' primary argument against the capitulations centered around the claim that the capitulations were unilaterally granted and therefore unilaterally revocable concessions. But this argument did not prove particularly persuasive, especially after the capitulations came to be regarded by Euro-American international lawyers in the nineteenth century as involving bilateral obligations, i.e. obligations on the part of the Ottoman state in equal measure to obligations on the part of the foreign state in question, and tied to the level of civilizational and rule of law in non-European countries. It even became perceived as part of the multilateral legal arrangement as Japan requested capitulations from the Ottomans when these two countries were discussing formal diplomatic relations.⁴⁷ The Ottoman government and lawyers rejected the systemic justification of the capitulations as unequal treaties because it entailed accepting designation as a semi-civilized member of the Concert of Europe. In their 1914 circular calling for cancellation of the capitulations, the Young Turk government explained how these originated as unilateral grants and thus the Ottoman government withdrew it because its original conditions had been altered. Soon afterwards, the Ottoman government similarly cancelled the status of special autonomous provinces such as Lebanon and Egypt and condemned the international treaties that gave European powers the right of custodianship over its Christian minorities.

⁴⁶ Lale Can and Michael Christopher Low. "The" Subjects" of Ottoman International Law." *Journal of the Ottoman and Turkish Studies Association* 3.2 (2016): 223-234.

⁴⁷ Renee Worringer, *Ottomans Imagining Japan: East, Middle East, and non-Western Modernity at the Turn of the Twentieth Century*, (Palgrave MacMillan, 2014), pp: 96-107.

Latin American nations, which were ruled by white Christian elites with ties to Europe, were not subjected to extraterritoriality, even if they were weaker than the Ottomans in military, finance or diplomacy. Moreover, even the citizens of smaller and weaker states in Europe, such as Belgium and Greece, benefited from extraterritorial rights in the Ottoman Empire, a state whose military might far exceeded the power of their own. In fact, when a Belgian citizen joined a plot to assassinate the Ottoman Sultan Abdulhamid, the Ottoman government could not prosecute him and was forced to extradite him to Belgium.⁴⁸ Similarly, in a battle between the Ottoman Empire and Greece over Crete in 1897, the Ottoman side won the war but Greek citizens continued to exercise extraterritorial rights in the Ottoman Empire, while Ottoman subjects were not given equivalent rights of extraterritoriality in the newly independent Christian Balkan States such as Bulgaria and Romania.⁴⁹

The Ottoman government could assure their citizens of some level of reciprocity of rights and equal treatment in European colonies in Asia as well as in independent Balkan States in return for rights granted to Christians in Ottoman domains. As Umut Özsu demonstrates, 1878 Treaty of Berlin established an innovative and fairly robust system of minority protection by conditioning European recognition of Serbia, Montenegro, and Romania as *de jure* sovereigns—and Bulgaria as a *de facto* independent state—on the condition of Muslim minority protection and rights. Relevant legal provisions concerning the rights of Muslim populations in Bulgaria, Serbia and Romania were substantively similar in across these territories and were intended to correspond to the rights of Christians in Ottoman lands. The treaty forbade, among other things, discrimination on the basis of faith ‘in respect to the enjoyment of civil and political rights, admission to public employment, functions, and honors, or the exercise of different professions and industries’.⁵⁰ Ottoman passport holders were also treated differently in European colonial territories in Asia. For example, in Dutch colonies, Ottoman subjects were treated like European passport holders in commercial interactions, as compared to foreign merchants without imperial protection or native Indonesians.⁵¹

The third critique concerned Ottoman diplomatic effort to sustain its legal sovereignty in autonomous provinces like Lebanon, Egypt and Bulgaria, and in areas nominally under Ottoman rule but effectively ruled by the British (Egypt and Cyprus) and Austria-Hungary (Bosnia). Autonomous provinces of

⁴⁸ Houssine Alloul, Ethem Eldem, and Henk de Smaele (eds), *To Kill a Sultan A Transnational History of the Attempt on Abdülhamid II (1905)*. (London: Palgrave Macmillan UK, 2018)

⁴⁹ In 1840s, the relationship between the Ottoman Empire and Greek Kingdom were more reciprocal based on legal equality. Conditions changed in late 19th century as Greece was identified with civilization and the Ottomans were categorized as semi-civilized.

⁵⁰ Umut Özsu, *Formalizing Displacement*, p. 27.

⁵¹ Merve Ispahani, *Building Sovereignty in the Late Ottoman World: Imperial Subjects, Consular Networks and Documentation of Individual Identities*. (Ph.D. Dissertation, Columbia University, 2018)

the Ottoman Empire saw diminished sovereignty of the Ottoman Central government in areas still nominally within its domain. All Ottoman autonomous provinces had international recognition in European treaty law, and the Ottoman government preferred this arrangement over the possibility of completely losing sovereignty in these areas. Thus, the Ottoman government insisted on maintaining the nominal and legal ties that the Ottoman autonomous provinces had with the central government. Yet, as the Ottoman Empire became stigmatized as uncivilized, its semi-sovereign status in those provinces was interpreted as a sign of its weakness and inequality in international law by the Ottoman elite. Ottoman diplomatic and legal experts never abandoned or relinquished the Sultan's claim of sovereignty in any of these autonomous areas or areas protected by European empires. In fact, bringing the autonomous provinces back under Ottoman sovereignty was one of the proclaimed goals when the Ottoman government joined WWI. Ottoman elite realized that an unfavorable military imbalance against European great power alliances would make their claims to Egypt or Bosnia ineffective in international law. In fact, autonomy granted to the Balkan territories led to cession of these territories from Ottoman rule in Greece (1831), Serbia, Montenegro, Romania (1876), Bulgaria (1908), Albania (1912). Thus, Ottoman legal scholars began to see the autonomous province tradition in Ottoman rule as a sign of weakness and pushed for direct rule from Istanbul and greater centralization, and perceived the European treaty obligations signed with European powers leading to the granting autonomy as a sign of their unequal status in international law.⁵²

The fourth major critique Ottoman diplomats levied against European international law derived from the Ottoman attempt to utilize the rules set out at the Berlin Conference of 1884-1885 with regard to European colonization of Africa to assert imperial holdings in that continent. The Ottoman Empire was part of the Berlin Conference, as it had territories in Africa including Libya, Egypt (nominally Ottoman territory, though officially a British protectorate after 1882), Sudan and various ports in African part of Red Sea such as Massawa and Suakin, and Zeila on the Somali Coast. Ottoman diplomats and lawyers tried to assert effective control of Ottoman territory over the hinterlands of these coast cities by referring to the hinterland principle of the Berlin Conference. While Ottoman legal arguments seemed valid and relevant on paper, their claims were rejected in favor of British and French claims to the same hinterland territories. This is a clear case of imperial bullying based on the idea that the Ottomans could not – and should not – enter the scramble for Africa according to the rules of Berlin Conference, based on assumptions that the Ottoman Empire was a weak semi-civilized Muslim state.⁵³

In short, from Ottoman perspective, the problem of 19th-century international law did not arise from a lack of willingness and capability to follow a certain set of standards associated with European

⁵² Aimee Genell, "Autonomous Provinces and the Problem of 'Semi-Sovereignty' in European International Law," in *Journal of Balkan and Near Eastern Studies*, 2016 Vol. 18, No. 6, 533–549

⁵³ Mostafa Minawi, "International Law and the Precarity of Ottoman Sovereignty in Africa at the End of the Nineteenth Century," *International History Review*, Volume: 42/3 (2020)

civilization. Initially, it was the Ottoman elite who preferred the language of shared universal civilization over discourses of Christian values emanating from Europe, and they became invested in the language of civilization in justifying their domestic reforms while bolstering arguments for their belonging within the European diplomatic order. Ottomans reformists appropriated the standard of civilization in constitutional proclamations of the 1839, 1856 and 1876, and as a rationale for codifying Muslim family law into Mejlle code. As recent critical scholarship on European international law shows, the standard of civilization was never really a standard or a set of consistently applied norms. Racialized interpretations of the idea of civilization in international law, in writings by James Lorimer, John Westlake, and Franz von Liszt, turned the concept into a rhetorical tool used to stratify international legal order, allocating rights and duties on the basis of a hierarchy of states, polities, peoples, and legal systems/traditions. In response to these exclusionary interpretations, Ottoman and other non-Western political elites began to utilize the idea of universal standards to critique European powers that violated their proclaimed standards of civilization in their dealings with non-Western kingdoms and in treatment of colonial subjects in Asia and Africa.⁵⁴ More important were the boundaries and ethnocentrism of the European conception of civilization itself. The notion of a European political order emerged in relation to increasingly ossified boundaries between European civilization and its Muslim, black, Asian or Chinese Other. In that context, criteria for the standard of civilization were never clearly defined as it involved parochial and non-universalizable sensibilities of Christian and white superiority.⁵⁵

Ottoman elites and jurists endorsed positivist international law that would treat their state as sovereign in the imperial world order even while gradually becoming aware of the discourse of their civilizational inferiority. John Westlake (1828-1913), Henry Wheaton (1785-1848) and Lassa Oppenheim (1858-1919) all distinguished between the family of civilized nations where international law is applied with fairness, and nations outside of these boundaries of civilized values and thus excluded from equal treatment in international law. Ottoman elites were aware of the paradoxical way they were treated: according to positivist law and geopolitics, they were part of the European international law, but they were treated unequally on multiple occasions, with unequal treatment justified through arguments citing religious and civilizational difference. In response, Ottoman jurists embraced and referenced positivist legal norms to

⁵⁴ For the role of non-European international lawyers in embracing and universalising European concepts of international law, see Arnulf Becker Lorca, 'Universal International Law: Nineteenth Century Histories of Imposition and Appropriation', *Harvard International Law Journal* 51 (2010), 475–552

⁵⁵ See Lauren Benton, "Abolition and Imperial Law, 1790-1820," *Journal of Imperial and Commonwealth History* 39, No. 3 (2011): 355-74; Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2010); Siegfried Wiessner, "American Indian Treaties and Modern International Law," *St. Thomas, Law Review* 7 (1994-1995): 567-602; Charles Henry Alexandrowicz, *The European-African Confrontation: A Study in Treaty Making* (Leiden: Sijthoff, 1973). See also Charles H. Wesley, "The Struggle for Recognition of Haiti and Liberia as Independent Republics" *Journal of Negro History* 2, No. 4 (1917): 369-83.

strengthen the state's claim to sovereignty while simultaneously creating uniformity of legal practice within the Empire with regard to the rights of subject populations to prevent European empires from finding excuses for military intervention. The point here is not to say that European international lawyers held an ideological or political position on the application of European law of nations to relations with the Ottomans. Bureaucrats and diplomats in Istanbul similarly exhibited their own political beliefs in reference to norms such as sovereignty, or to utilize the discourse of civilization to their benefit. What matters is that the Ottomans began to perceive a consistent pattern of exclusion and restriction in their legal treatment enacted through the language of civilization, namely that only Christians could be fully civilized and Muslims inherently could not fulfill the criteria of civilization. Their initial response was an apologetic discourse of civilization, trying to persuade the European public that Muslims populations and elites could indeed be as civilized as Christians. Concurrent with this strategy, they also developed a new strategy utilizing the credentials of the Ottoman Sultan as the caliph in colonized Muslim societies.

The Roots of Caliphate Diplomacy and Pan-Islamic visions of World Order

While proponents of Ottoman reformist diplomacy from the early 19th century onwards tried to assert the state's membership into Eurocentric imperial order, this process also strengthened the empire's reputation and credibility in diverse Muslim societies outside of Ottoman domains. Ironically, an Ottoman Caliphate-centered Muslim world did not precede the age of European high imperialism, but became co-constituted during the emergence of the racialized Eurocentric world from the 1870s to the 1910s. The global popularity of the caliphate was not something suppressed by Tanzimat reforms of the 1840s, and came back in the 1880s. Respect for the Ottoman caliphate in late 19th century was actually produced by the crisis of the Ottoman Empire's self-civilizing reforms intended to promote inclusion in European society. The issue of the Caliphate often involved questions of Eurocentric international law and imperial diplomacy from the very beginning, and the Ottoman Empire's embrace of the Caliph title for their monarch was a way to further internationalize its participation in and critique of the Eurocentric law of nations. Ottoman intellectuals never brought the Darul Islam and Darul Harb categories back to navigate the crisis of international relations facing the Ottoman Empire. Instead, they utilized new terms such as the Muslim World and Christian Europe.

The modern Ottoman debate over the Empire's responsibility for the Muslims outside of Ottoman territories started in 1873, when Sultan of Aceh Mahmud Syah sent a delegation to Sultan Abdulaziz requesting the Ottoman Empire's protection and military aid against Dutch military attacks in Southeast Asia. Aceh's requests for Ottoman diplomatic protection against the Dutch attacks, delivered by Hadrami Arab emissary Sayyid Habib Abdurrahman al-Zahir on the eve of the protracted Acehese-Dutch War

(1873-1906), relied on two decades of correspondence and exchange between this Muslim Sultanate and the Ottoman Empire. Aceh rulers were aware that the Ottoman Empire had been considered a member of the concert of civilized European empires since the end of the Crimean War in 1856, and they expected the Ottomans to have capacity to wield soft power in international diplomacy on account of their belonging to European imperial order. In addition to the Aceh delegation, which was given an audience with Sadrazam Mahmud Rushdi Pasha and the Ottoman Sultan Abdulaziz himself, the Ottoman capital also hosted representatives from the Muslim sultanates of Hiwa, Bukhara, and Kashgar over the summer of 1873. These other delegations similarly asked for diplomatic support and military advice against the Russian or Ching empires.⁵⁶ It would, however, be mistaken to categorize the delegation sent by the Aceh Sultan as a call for Muslim resistance against European empires or separation of Darül Islam from Darül Harb. After all, Aceh sent similar emissaries to the British authorities to plead their support against Dutch attacks.

Aceh's diplomatic initiative ignited conversations in Istanbul on the role of Muslim religious ties and obligations in inter-imperial diplomacy, and on the political role of public opinion created by print media and communication technologies. Some Ottoman newspapers began to advocate an Ottoman mission to protect weaker Muslim states and help them raise their level of civilization, rebranding the European civilizing mission and topping it with a Fez. An exaggerated (and false) account of Istanbul's printed journals announcing that the Sultan's government was planning to send a fleet of military advisors was reported by Reuters. When the news reached Southeast Asia, it led to heightened expectations in Aceh and beyond.⁵⁷ Abdurrahman al-Zahir's success in making a case for Ottoman protection over Aceh led to reactions from the Dutch, Russian, and other European embassies and governments. These European empires would not accept the Ottoman Sultan offering protection to small Muslim sultanates or their Muslim subjects in Asia based on his status as the caliph, even if their governments were offering protection to the Christian populations of the Ottoman Empire. Eventually, the Ottoman government responded to the demands of Aceh Sultanate with an offer of a diplomatic arbitration between the Dutch and Acehnese sides, an offer that was immediately rejected by the Dutch foreign office.

During the Aceh initiative debates, Ottoman authorities emphasized that their earlier and future ties with Aceh and other Muslim sultanates were necessarily limited to the religious domain due to the significance of the Ottoman Sultan's role as Caliphate, and that this relationship could not be political or

⁵⁶ Oman Fathurrahmann, and A. C. S. Peacock. *From Anatolia to Aceh Ottomans, Turks and Southeast Asia*. (Oxford University Press, 2015)

⁵⁷ Ismail Hakkı Gökay, "Ottoman-Aceh Relations as documented in Turkish Sources," in *Mapping the Acehnese Past*, ed. By Michael Feener; Patrick T Daly; Anthony Reid (KITLV Press, Leiden 2011). Pp: 65-96.

military in nature. There were references to Muslim legal tradition in the formulation of the Ottoman caliph's concern for the rights and freedoms of Muslims subjects of different European empires, but his approach also relied on European imperial secularism, as exemplified in India, where the British empire proclaimed that Muslims were free in their religious affairs. The distinction between the spiritual sovereignty of the caliph over Muslims outside of the Ottoman domain, in contrast the political sovereignty of the Russian, British, French or Dutch empires over land and people, was meant to ensure that reference to Ottoman Sultan's title 'Caliph of Muslims' would not be interpreted as a military or political threat to European empires by intervening in their imperial domains, and would not raise suspicion among the already Islamophobic European elite that there was an innate Muslim rejection of Western empires and modernity.

Even though the initial gesture of a spiritual caliphate diplomacy was intended to promote inter-imperial peace, during the half century between Aceh delegation's visit in 1873 to the abolishment of the Caliphate in 1924 the racial and religious basis of international diplomacy and geopolitics would give rise to new interpretations of Caliphate diplomacy and, ironically, would further politicize the concept. There were other demands for diplomatic aid from Istanbul coming from Southeast Asian Muslims during the Banten Uprising in 1888, the Pahang War in 1891-1895, and Jambi and Riau (1904-1905). When the Sultan of Siak, enroute to the Netherlands and Germany, or Prince Sosronegoro, brother of the Sultan of Kutei in East Borneo, visited Istanbul, the Ottoman Sultan assuaged Dutch colonial anxiety by assuring the Dutch envoy that he would urge Indonesian Muslims to be loyal to the Dutch Queen Willhelmina. When one Indonesian Prince wore a fez during his visit to Istanbul, this led to questions of his loyalty to the Dutch empire. Dutch authorities asked Istanbul to recall consular officer Mehmed Kamil Bey due to their suspicions of his close links with leading Muslim merchants of Hadrami Arab background, particularly after his marriage to the widow of the Sultan of Johor. When Kamil Bey's name was mentioned for the Ottoman consular post in Singapore, the Dutch government successfully petitioned the British to reject this appointment. After the Ottoman foreign ministry opened its second consulate in Asia in Batavia (today's Jakarta) in 1883, the Consul General immediately received great support from colonized Muslims of Indonesia, among whom he was respected as the representative of the Ottoman Caliph.⁵⁸ Some wealthy Arab merchants of colonial Indonesia managed send their children to Ottoman schools in Istanbul, an endeavor aided by the Consul General. The Yemeni Arab diaspora in Indonesia asserted their ties to Istanbul by wearing a Fez and requesting Ottoman passports, demonstrating that they were not only to

⁵⁸ Diren Çakılcı. "Ottoman Consulate General in Batavia: Establishment, Consul General Ali Galib Bey and His RReport," *International Congress Of Eurasian Social Sciences (ICOESS) Özel Sayısı*. 2017.

be proud of this Muslim empire, but also asserting their right to benefit from the legal rights associated with a European empire.

Both the small number of Indonesian students in Ottoman schools, and an increasing number of Indonesian pilgrims to Mecca, led to fear of a Pan-Islamic threat among Dutch colonial officers, despite Ottoman assurance that the Caliphate's authority was only spiritual and presented no political challenge to Dutch colonial rule. That the Dutch empire was having this conversation about their subjects with the Ottoman Sultan worried Orientalist Dutch scholars such as Snouck Hurgronje. Even in embassies and consulates in Europe and America there were Ottoman diplomats cultivating links with Muslims in Liverpool, New York, London and other cities. Matthew Sharp's dissertation shows how, for example, Ottoman diplomats, including non-Muslim Greek and Armenian Ottoman diplomats, discussed and debated whether they should promote British and American white converts to Islam in England or the USA to fight against Islamophobic public opinion in Europe.⁵⁹

Other Muslim sultanates developed stronger religious and diplomatic ties with the Ottoman Caliphate at the peak of European colonial hegemony partly due to the connectivity created by networks of steamship, train and telegraph lines. Gradually, the Caliphate title of the Ottoman Sultan became a symbolic reference point and node of intellectual/spiritual leadership in imagining a Muslim international commonwealth overlapping with multiple European empires. The Omani-Zanzibarian Al-Basaid dynasty's relationship with the Ottoman Caliph illustrates this change in geopolitical thinking about Muslim identity. When the Zanzibari Sultan Bargash bin Said intended to perform the pilgrimage to Mecca in 1877, the Ottoman Sultan Abdulaziz granted him the special Ottoman imperial title of *Majidiyya*. Further Ottoman-Zanzibari exchanges underlined critique of Christian European colonial rule in Africa and emphasized the need for Muslim solidarity in international affairs. The improvement of these ties peaked during the reign of Zanzibari Sultan Ali bin Hamud (r.1902-1911), who introduced the Ottoman-style fez and coat as the official Omani dress even when Zanzibar was under official British protection. Wearing a fez became a politically-charged fashion statement for educated Muslims in Zanzibar and beyond, a symbol of modernist Muslim identity recognizable from South Africa to India to North Africa. Even though Zanzibari-Ottoman ties did not prevent British imperial control of this Muslim dynasty, the Zanzibari public followed news from the Ottoman Empire and joined various boycotts related to Ottoman causes, such as the boycott of Italian goods upon Italy's invasion of Libya in 1911.⁶⁰

⁵⁹ Matthew Sharp, "On Behalf of the Sultan: The Late Ottoman State and the Cultivation of British and American Converts to Islam." (Ph.D. Dissertation, University of Pennsylvania, 2020)

⁶⁰ Amal N. Ghazal, *Islamic Reform and Arab Nationalism* (New York: Routledge, 2010), 51-57.

In addition to Zanzibar, several other Muslim dynasties' links with the Ottomans strengthened in the age of European imperial hegemony. Moroccan intellectuals, for example, developed an interest in Ottoman reforms.⁶¹ Sultan Abu Bakar of Johor visited Istanbul twice, once on his way back from a visit to London and another time in return from a pilgrimage to Mecca. Received by the Sultan, he was honored by medals and given a palace-trained concubine from the Harem during each visit.⁶² Upon his return from Istanbul in 1893, Sultan Abu Bakar introduced the Ottoman civil code *Medjelle*, a codified version of Muslim civil and family law, to Johor.⁶³ Interest in *Medjelle* demonstrated respect shown for the Ottoman legal reforms and a belief that these reforms were a model for its own self-strengthening program and membership into European international legal order. Afghanistan's ties to Istanbul similarly peaked in the early 20th century, after a humble start with an Ottoman delegation arranged by the British Ambassador to Istanbul and Viceroy of India in 1878. In 1897, Mahmud Terzi, an aristocratic Afghan exile in Damascus, translated an Ottoman book on international law into Persian and send it to Kabul for publication. Upon his return to Kabul, Mahmud Terzi rose to become the key reformist prime minister and father-in-law of future Afghan king Amanullah (r. 1919-1929). Ottoman legal experts, engineers and military offices trained several generations of Afghan elites and contributed to the formation of the 1923 Afghan constitution.⁶⁴

More Russian Muslims began to visit Istanbul on the way to Mecca for pilgrimage, using a network of trains and steamships created by the Russian Empire. The Muslims of the Russian Empire became the third largest group of pilgrims in Mecca on the eve of WWI.⁶⁵ Whenever a Muslim Russian imperial subject wanted to obtain residency in Arabia or needed financial aid from the Ottoman government on their trip to holy lands in Arabia they could appeal to their identity as 'spiritual subjects' of the Caliph in Istanbul.⁶⁶ Furthermore, both Russian modernist and traditional elites sent their children to Istanbul for education.

⁶¹ Edmund Burke, "Pan-Islam and Moroccan Resistance to French Colonial Penetration, 1900–1912," *The Journal of African History* 13, No. 1 (1972): 97-118.

⁶² Abu Bakar of Johor visited Istanbul in 1870, at the time of Sultan Abdulaziz and then in 1893, at the time of Sultan Abdulhamid the Second. The first concubine from Ottoman palace was arranged to marry Johor Sultan Abu Bakar's brother (and later on two other Malay dignitary upon divorce). One of her grandsons, Hussein Onn, became a Prime minister of modern Malaysian state. The second concubine Hadija, was married to Abu Bakar himself.

⁶³ Iza Hussin, "Circulations of Law: Cosmopolitan Elites, Global Repertoires, Local Vernaculars," *Law and History Review* 32, No. 4 (November 2014): 773-795.

⁶⁴ See Faiz Ahmed, 'Istanbul and Kabul in Courtly Contact: The Question of Exchange between the Ottoman Empire and Afghanistan in the Late Nineteenth Century', *Osmanlı Araştırmaları: The Journal of Ottoman Studies* 45 (2015), 265–296. See also Faiz Ahmed, *Constituting Afghan Constitution of 1923* (Forthcoming Harvard University Press, 2017)

⁶⁵ Lale Can, "Connecting People: A Central Asian Sufi Network in Turn-of-the-Century Istanbul," *Modern Asian Studies* 46, No. 2 (2012): 373–401.

⁶⁶ Lale Can, *Spiritual Subjects: Central Asian Pilgrims and the Ottoman Hajj at the End of Empire*. (Stanford University Press, 2020)

Gradually, European and American began to consult the Ottoman Caliph in dealings with Muslims in faraway lands. When American colonial officers faced problems in their relationship with Muslims in the Philippines they asked for the help of the Ottoman Sultan, with the assumption that reformist Ottoman Muslims would be better agents and mediators for the civilizing projects the Americans were involved in. In fact, upon request by Oscar Strauss, the American ambassador in Istanbul, Abdulhamid II agreed to send a message to several Muslim leaders from the Philippines asking that they be peaceful and not rebel as long as American rule respected their religion. President McKinley's letter to Ambassador Strauss praised his diplomatic talent in gaining the support of Caliph Abdulhamid in securing stability and order in America's rule in the Philippines.⁶⁷ British imperial officers in South Africa similarly invited Ottoman religious scholars to resolve intra-Muslim controversies and contribute to educational projects in their domains.⁶⁸ During the Boxer Rebellion in China, the German Emperor Kaiser Wilhelm asked the Ottoman Sultan Abdulhamid to use his Muslim credentials to advise the Chinese Muslims not to cooperate with the boxer rebels.

One of the most significant results of the strong links developing between the Ottoman Empire and other Muslims societies just as the Ottoman were trying to become a member of European international society was the rapprochement and closer ties between Persia (which had a majority population of Twelver Shi'a) and the Ottoman Empire, two empires with a long tradition of rivalry. Even as late as 1878, when the Ottoman government began to use the "Red Crescent," later adopted as the symbol of the internationally recognized Islamicate counterpart of the Red Cross, as the emblem of protection for civilians during the Russo-Ottoman Wars, Iran did not accept the universality of the crescent as a symbol of Muslim societies. The crescent was, after all, a symbol derived from the Ottoman flag and did not carry the same religious precedent or significance as the cross did for Christians. One legacy of the late 19th-century strengthening of political links to the Ottoman Empire from various parts of the Muslim commonwealth is the appropriation of the crescent from the Ottoman flag as a symbol of Muslim identity, now adorning the flags of more than ten post-colonial Muslim majority countries even though there is no theological significance of the crescent in Muslim faith traditions. The national branch of the International Red Cross in Persia used the lion and sun, both from the Persian flag, as its emblem. Yet, despite the continuation of these earlier imperial and theological divisions, Iran's relationship with the Ottoman Empire improved tremendously in the late 19th century, with an increase in trade and intellectual exchange. Persian monarchs visited Istanbul several times, always on their way to European capitals, and were received by the Sultan with utmost respect. Constitutionalist Iranian Shi'a intellectuals advocated for an alliance

⁶⁷ Mustafa Akyol, "A Sultan with Swat," *The Weekly Standard* 11, No. 15 (December 26, 2005): 16-18.

⁶⁸ For the memoirs of the Ottoman scholars who went to South Africa, see Ebubekir Efendi Ebubekir, *Ümitburnu Seyahatnâmesi* (Travel Memoirs of Cape of Hope), ed. Hüseyin Yorulmaz (İstanbul: Ses Yayınları, 1994).

between the Ottoman Empire and Iran, and the Iranian public developed its own interest in Muslim solidarity with Ottomans in an era of European imperial hegemony, transcending the earlier divisions between Shi'a and Sunni Muslims.⁶⁹ Moreover, Shia Muslims of Iraq and India were more interested in the leadership of the Ottoman Empire than that of Qajar Persia. When the Ottoman Empire joined WWI, they repeatedly referenced the Persian Kingdom's right to sovereignty as a normative principle of international relations and criticized the violation of Persia's sovereignty by Russia and the British Empire. Thus, the call for Muslim solidarity was respectful of sovereignty and independence of other Muslim kingdoms and political entities.

While the "Eastern Question" discourses shaping the European view of international law depicted the Ottoman reforms as futile, insincere and ineffective due to the despotism of its leaders, a subsidiary anti-Muslim discourse promoted the opinion that Ottoman Muslims could not create a civilized empire on account of the fanaticism of their religion.⁷⁰ Muslim supporters of the Ottoman Empire made the reverse argument that the Ottoman Caliph was a reformist and civilized leader, and that his treatment of his Christian subjects had always been better than that of the Christian dynasty ruled British, French and Russian Empires' treatment of their Muslim subjects.⁷¹ Muslim admirers of the Ottoman reforms noted how the Caliph's government included hundreds of non-Muslim bureaucrats, which was in favorable contrast to European empires, which rarely promoted non-Christians to high-ranking positions. Ottoman elites abolished the poll tax on non-Muslims (*jizya*) during the Tanzimat reforms, later abolished the slave trade, and gradually spread these important reforms to other Muslim societies. While European public opinion saw the Ottoman Empire as the "sick man of Europe," Muslims in India and Southeast Asia depicted the empire as the civilized leader of the global Muslim community, representing their dignity and equality in a globalizing imperial world order.⁷² It seems the European empires were drawing distinctions between the Christian world and the rest of the world though seeing the world as divided into zones of civilization, semi-civilization and barbarism, and insisting that the Ottomans, because they were Muslim, could not

⁶⁹ For Pan-Islamism in the Iranian-Ottoman context, Mehrdad Kia, "Pan-Islamism in Late Nineteenth-Century Iran," *Middle Eastern Studies* 32, No. 1 (1996): 30-52.

⁷⁰ Malcolm MacColl, *The Eastern Question: Its Facts & Fallacies* (London: Longmans, Green, 1877)

⁷¹ For the Central Asian and South Asian admirers of the Ottoman Empires, see Adeeb Khalid, "Pan-Islamism in Practice: The Rhetoric of Muslim Unity and its Uses" in *Late Ottoman Society: The Intellectual Legacy*, ed. Elisabeth Özdalga (London: RoutledgeCurzon, 2005), 201-224. See also, Adeeb Khalid, "Central Asia between the Ottoman and the Soviet Worlds," *Kritika: Explorations in Russian and Eurasian History* 12, No. 2 (2011): 451-476.

⁷² Shaikh Mushir Hosain Kidwai, *Pan-Islamism* (London: Lusac & Co, 1908).

belong to civilized international society.⁷³ The global Muslim modernist perception of the Ottoman empire in late 19th century took the opposite perspective, namely that the Ottomans represented the possibility of a Muslim empire that could be both civilized and European.

The Ottoman Empire, from the 1870s onwards, appeared to have a paradoxical dual strategy in response to this perceived exclusion.⁷⁴ On the one hand, they embraced international law and tried to utilize it in defense of the empire. Ottoman international lawyers constantly criticized the double standards of European diplomatic practice in issues related to the Ottomans, but they hoped that, by utilizing international law, they could overcome this discrimination. On the other hand, the Ottoman Sultan's credential as the Caliph of all Muslims was increasingly emphasized, and extended to include spiritual sovereignty over the Muslim subjects of European empires. This may seem to contradict the first Ottoman strategy of defending their sovereignty and insisting on the principal of non-intervention in **internal** rule. Yet, the initial Ottoman strategy of projecting the Caliphate as a spiritual sovereign from the 1880s to the 1910s was intended to foster a power balance and assert the legal equality of the empire, not to create a Muslim world order alternative and revolting against Europe. The idea of the spiritual caliphate was supposed to provide an additional incentive for British-Ottoman alliance because the British monarch ruled over close to forty percent of all Muslims in the world. As the British and other European empires spoke on behalf of the rights of Christian subjects of the Sultan, Ottoman elite cautiously began to think and articulate their ties to the Muslim subjects of European empires. Indian Muslims embraced the notion of a spiritual caliphate in Istanbul without disloyalty to the British monarchs who were empress or emperor of India. Developing Indian Muslims' link to Istanbul was expected to demonstrate that Islam was compatible with progress and civilization. This was a reformist strategy, intended not to remake the imperial world or shake the foundations of the Eurocentric colonial order, but to ensure the Ottomans and, with them, other Muslims, would be treated equally and with dignity in a racialized world order.

Revolutionizing Caliphate Diplomacy

Ottoman Muslim elites' utilization of the Caliphate for radical and revolutionary diplomacy in Asia and Africa started during WWI, when they became convinced that earlier attempts to use international law to preserve the empire and protect its sovereignty had failed. The path from Caliphate diplo-

⁷³ For an example of international law scholarship that saw the Ottomans not-civilized and thus not equal, see John Westlake, *Chapters on the Principles of International Law* (Cambridge: CUP 1894)

⁷⁴ Ottoman International Law textbooks consistently underlines this point of double standard: See: Ali Şahbaz Efendi. *Mufasssal Hukuk-ı Dâvel*, Vol: 1, İstanbul, Bağdadlıyan Matbaası, 1324/1908; İbrahim Hakkı Paşa. *Medhal-i Hukuk-ı Beyneddiivel*, (İstanbul, Karabet ve Kasbar Matbası, 1303/1887a.)

macy aimed at imperial cooperation and peace to a new way to utilize the Caliphate for imperial confrontation came about through a series of events starting with the 1911 Italian invasion of the Ottoman North African province and culminating in the Ottoman government's declaration of holy war, or Jihad, on behalf of the Caliph in 1914. Ottoman territorial losses after the Italian invasion of Libya in 1911 led to broader public opinion mobilization across Muslim societies from India to West Africa. Italian actions were a clear violation of international law, yet none of the European powers intervened to censure Italians and defend the legal rights of the Ottomans. Indian Muslims mobilized to pressure London to intervene on the Ottoman side against Italian violation of international norms, arguing that Britain, as the biggest Muslim empire in the world, had a moral responsibility to help the Ottomans. A manifesto issued by Muslim students in Edinburgh quoted this line from Turkish newspaper before asking Muslims to collect donations to strengthen the Ottoman navy: "treaties are concocted by European powers to mislead and cheat, to be torn up and jettisoned whenever necessary ."⁷⁵

During the Ottoman mobilization against Italy, Ottoman elites argued that the survival and strength of the Ottoman empire was linked to the future of Islam and the Muslim world. Interpreting an inter-imperial conflict as a clash between Islam and Christianity or clash among races was not particular to the Ottomans and their Muslim supporters in Asia and Africa, but a common way to perceive, interpret and narrate international affairs during the first two decades of the twentieth century. After all, Japanese victory over Russian in 1905 in a truly imperial war was depicted as the first victory of an empire from the colored race against a white power. The 1911 London Universal Race Conference, held just several months before the Italian invasion of Libya, addressed the awakening of the colored races and their demands for equality in world affairs.

Soon after the Ottoman defeat by Italy, the Balkan Wars of 1912-1913 further confirmed the Ottoman elite's conviction that the policy of utilizing international law to defend their empire has not worked. Following two years of bitter fighting which witnessed the displacement of a large Muslim population from the Balkans to the Ottoman interior, as well as a series of massacres to expel the Ottoman Muslims completely out of Christian Europe, the Ottoman State was forced to cede almost all of its European territories to the coalition of the Balkan states.⁷⁶ Despite the proclamations of European powers that they would not accept any changes in the status quo as a result of the war, the expansion of the Christian Balkan states at the expense of Ottoman lands was nevertheless internationally recognized at the London

⁷⁵ Jonathan Conlin and Filiz Yazıcıoğlu, *Plaid Panislamism: The Edinburgh Declaration of 1911*, (forthcoming 2022)

⁷⁶ For the ethnic cleansing of the Muslims in the Balkans, see the sections on the Balkans Wars in Justin McCarthy, *Death and Exile: The Ethnic Cleansing of Ottoman Muslims, 1821-1922* (Princeton NJ, The Darwin Press, 1995), 135-164.

Conference of 1913.⁷⁷ Lack of European sympathy for the massacres committed by Christians against the Muslim population in the Balkans, and the inability of the European state system and international law to prevent these incidents, supported the general perception among the Ottomans that there was a new “Christian crusade” of Europe against the Muslim World and that Ottoman Turkey had to consider new policies. Young Turk governments continued to uphold the earlier Abdulhamid policy of leveraging Pan-Islamic networks and public opinion to protect their empire from the aggressive movements of the Russian Empire, but there was growing dissent against earlier versions of pro-British caliphate diplomacy as it had failed to produce any benefits. A pro-German and anti-British utilization of Caliphate diplomacy and Pan-Islamism emerged as an alternative, especially after formation of a British-Russian alliance against Germany.

It is in this context that the Young Turk-led Ottoman government, in cooperation with the German Empire, used the Caliphate as a tool for weakening Allied imperial powers, and as a tool of war, namely through inciting Muslims to revolt against their Christian rulers in British, French and Russian domains. At first glance, this appears to be an attempt at revenge against a particular set of empires deemed hegemonic and oppressive of Muslims, and discriminatory against the Ottomans. Yet, even the jihad/holy war during WWI was intended to remake and transform the Eurocentric imperial world, not to destroy it in the name of a rejectionist anti-Western Islamic world. Most Ottoman legal decisions made during WWI, such as abolishing the capitulations and asserting full sovereignty over autonomous provinces, referred the universality of international legal principals and demanded they be applied fairly. Ottoman officials condemned the European powers’ claims to protect non-Muslim minorities under various treaty obligations as unfair interventions of their sovereignty. The European law of nations was criticized due to prejudice in application, not in totality. This sense of disappointment with European discrimination was articulated by Celal Nuri, a Young Turk intellectual, writing on racial politics of international law on the eve of WWI in a book titled *International Law from Our Perspective*: “There is not one, but two, kinds of international law. One for us, and one for them, the Europeans. Europe’s morality and consciousness is also not one but two. One never feels empathy with our suffering and catastrophe. (In reference to watching lions tearing apart the human beings in ancient Rome), there is some Roman blood in the veins of every European... if you scratch the skin of any European today, you could discover a crusader under it.”⁷⁸

⁷⁷ After about six months of negotiation, during which a second Balkan War occurred, the Treaty of London signed on 30 May 1913 ended the Balkan Wars. With that treaty, Turkey ceded most of its territory in Europe.

⁷⁸ Celal Nuri, *Kendi Noktai Nazarimizdan Hukuk-i Diiwel* (International Law from Our Point of View) (Istanbul: Osmanlı Şirketi Matbaasi, 1911), s.5.

It is with this conviction that, upon entering WWI as a German ally in November of 1914, the Ottoman Empire invited colonized Muslims to revolt against British, French and Russian empires on the behalf of the Caliphate, and simultaneously articulating the necessity of respecting the sovereignty of every nation or kingdom, including Persia and Afghanistan. Ottoman use of the Caliphate as a tool of warfare during WWI increased anti-Ottoman racialization in Europe as well as in America, with Ottomans depicted as “terrible Turks” representing the worst militaristic aspects of Islam. The Allied powers responded with counter propaganda, emphasizing that the Ottoman Sultans should not be considered the legitimate Caliphs due to their militarist barbarism. Use and abuse of Caliphate diplomacy and even holy war proclamations during WWI were, in that sense, still aimed at making the Ottoman Empire a part of the European alliance system, not a rejection of that system. Yet, it was partly due to allied war propaganda against the Ottoman claim to leadership of the Muslim world in response to the Ottoman-German call for holy war during WWI that we have the prevailing narrative of the Ottomans as an anti-Western Islamic empire as perceived in European and American public opinion.

Even after the defeat of the WWI Ottoman-German campaign, the Caliphate continued to be used for revolutionary diplomacy more effectively by former Young Turk leaders and Turkish nationalists to address the Bolshevik Revolution and the rise of Wilsonianism.⁷⁹ Allied powers rejected Ottoman government claims to sovereignty over remaining Muslim-majority territories in the name of the Wilsonian Principal of self-determination. In addition to calling the Ottoman government a terrorist state in Article 142 of the Treaty of Sevres, article 139 of the same peace treaty declared that “Turkey renounces formally all rights of suzerainty or jurisdiction of any kind over Moslems who are subject to the sovereignty or protectorate of any other State.” Given the century-long history and continuation of European claims to protect the rights of Christians living under the rule of Ottoman rulers, this clause dismisses earlier Ottoman claims to offer protection of rights for Muslims living under the rule of Christian powers in the name of a spiritual Caliphate. Ottoman government memorandum at Paris Peace Conference was rejected with argument that WWI proved Ottoman Muslims uncivilized and un-European Asiatic behavior, undeserving of self-determination in Anatolia.

Even after the Ottoman defeat in WWI, the Bolshevik Revolution and the appeal of Wilsonian notions of majoritarian nationalism, the Muslim elite of the Ottoman Empire did not abandon the ideal of Muslim solidarity under the Caliphate and Pan-Islamism, and tried to leverage these concepts in their

⁷⁹ Andrew Orr, “‘We Call You to Holy War’. Mustafa Kemal, Communism, and Germany in French Intelligence Nightmares, 1919–1923”, *The Journal of Military History*, 75 (2011), 1095–1123.

struggles against the allied plans to divide Ottoman territories from 1918 to 1923. Therefore, the utilization of the Caliphate and ideal of Muslim solidarity formed by former Ottoman leaders such as Enver Pasha and Cemal Pasha, concurrent with the Turkish war of independence led by Ankara government, reached its peak in the aftermath of WWI. It was in the context of what Alp Yenen calls “the Young Turk international of the 1918-1922 period” that former Ottoman leaders (Enver, Talat and Cemal) established links with Moscow and Berlin, as well as Tehran, Ankara and Kabul, to remake Asia based on the principals of Muslim awakening and liberation, and the notion of self-determination based on both Wilsonian Principals and Bolshevik revolution.⁸⁰ Young Turk leaders, despite losing the imperial war they joined in WWI, seem vindicated that the post-WWI debate on self-determination of Asia was reminiscent of their own calls for revolt against European empires at the beginning of the war. The Bolshevik government in Moscow supported this interpretation, welcoming Enver Pasha as an anti-imperial hero of the oppressed Islamic Orient, not as the former leader of a rival empire. The success of revolutionary Pan-Islamic diplomacy discourse promoted by Bolshevik-Young Turk cooperation from 1919 to 1922, was partly due to the fear they engendered among European empires, and encouraged the settlement that the nationalist Turkish government of Ankara signed with Allied Powers at the Lausanne Treaty. But the very success of this ‘remaking of the Muslim world’ and “remaking of the imperial world” projects led to its undoing, in that the peace agreements and settlements that Ankara, Moscow, Kabul and Tehran achieved with hegemonic European empires eliminated the need for revolutionary diplomacy. What this revolutionary interpretation of Caliphate diplomacy did achieve, however, was full equality in international law and sovereignty. In addition to the Republic of Turkey as inheritor of the Ottoman Empire gaining legal equality in international law without unequal treaties and capitulations, both Afghanistan and Persia benefited from the global pressure of Muslim anti-imperialism associated with the perceived alliance between the Young Turk-led Caliphate movement and the Bolshevik government in Moscow.

International Law scholars of late Ottoman and Republican Turkish period consider the 1923 Lausanne Treaty and establishment of the seemingly more inclusive League of Nations as a turning point in finally abandoning discriminatory treatment of Turkey and accepting the full equality of Muslim majority countries.⁸¹ A century of Ottoman diplomacy balancing the desire to assert the universality of international law with notions of a spiritual caliphate developed to achieve racial equality of Muslims ended with the Turkish Republic’s abolishment of the Caliphate in March of 1924. Anti-imperial mobilization of the Caliphate movement in India and the revolutionary Caliphate diplomacy of the Young Turk leaders in

⁸⁰ Alp Yenen, ‘The Other Jihad. Enver Pasha, Bolsheviks, and Politics of Anticolonial Muslim Nationalism during the Baku Congress 1920’, in T. G. Fraser, ed., *The First World War and its Aftermath: The Shaping of the Middle East* (London: Gingko Library Press, 2015), 273–293.

⁸¹ Mehmed Cemil Bilsel. *Cemiyet-i Akvam, Suret-i Teessüsü, Mahiyeti, Vezâifi, Teşkilatı, Misakı*, (İstanbul, Matbaa-i Ahmed İhsan ve Şurekası, 1340/1924). Mehmed Cemil Bilsel. *Lozan*, (İstanbul, Ahmed İhsan ve Şurekası, 1933)

alliance with the Bolshevik government eventually assured full sovereignty of the Turkish republic without unequal treaties and capitulations at Lausanne Treaty. Once the Turkish government achieved full sovereignty as a member of the post-WWI international settlement, they began to see the symbolic sovereignty of caliphate over Muslim populations of European empires, which had undergone a revolutionary interpretation over the previous decade, as a burden and a problem in their relationship with European powers based on respect for sovereignty. Ironically, the success of Pan-Islamic discourse associated with Young Turk leaders' alliance with Bolshevik governments from 1918 to 1922 gave the nationalist government in Ankara additional advantages in obtaining sovereignty and equality, and contributed to demise and abandonment of the Caliphate itself. The Turkish Republic's perception of the terms of equal membership into European international society in 1923 as a diplomatic triumph and as the fulfilment of the original aims of the Tanzimat reforms partly contributed to the abolishment of the spiritual caliphate of Istanbul by the Turkish Parliament in Ankara. After 1924, Turkey seemed content with a partial revision of the racialized imperial order assuring the end of unequal treaties and recognizing their sovereignty in international law without challenging colonial rule in Asia and Africa. Discourse of civilization that characterized the previous century of Ottoman empires relationship with European law of nations were re-fashioned and re-interpreted both by Republican leaders and British imperial internationalists such as Arnold Toynbee to allow the claim of potential Europeanness of Turkish nation going through an intense series of self-westernizing reforms.

Conclusion:

The inclusion of the Ottoman Empire into the concert of Europe in 1856 is often depicted as the first example of extending the standard of civilization discourse limiting the boundaries of the international order to white Christian powers. Even after 1856, the Ottoman Empire appeared in European international discourses as the sick man of Europe requiring Christian humanitarian intervention, and as a site of incomplete civilization standards. The Ottoman Empire did, of course, have domestic problems of governance, but these were not qualitatively greater than the problems manifest in European empires. European public opinion stigmatization of the Ottomans as a semi-civilized Muslim other to deflect racial discrimination and exploitative practices in their own imperial domains against their Muslim subjects. European geopolitical arguments within the discourse of the Eastern Question, dealing with the future of the Ottoman domains after its potential disintegration, was racialized because it tied the so-called failure of Ottoman reforms to their Muslim-ness. The bullying by collective European imperial pressures on the Ottoman Empire on behalf of the rights of Christian minorities, as well as the economic disadvantages caused by capitulations, overwhelmed Ottoman attempts at achieving security and sovereignty through

inclusion in the European order. Thus, the so-called the moment of formal Ottoman inclusion into Europe in 1856 actually generated the subsequent period of rejection and denial of Ottoman sovereignty over its territories, as well as Ottoman inequality in international law.

The above discussion of Ottoman caliphate diplomacy shows how the Ottoman Empire, like other non-Western empires and kingdoms, eventually succeeded in securing sovereignty and equality at the Lausanne Treaty of 1923. Yet, this article cautions against seeing eventual Turkish inclusion as an equal member into international society as a sign of benevolent and inevitable universalization of the European Westphalian notions of sovereignty extended to semi-civilized lands of Africa or Asia.

We should see the gradual universalization of the idea of sovereignty and states of equal status constituting international order as the culmination of efforts of non-Western states, often with unexpected strategies, such as the anti-Western notion of revolutionary caliphate, rather than simply the contagious expansion and spread of Eurocentric norms through Westernization of knowledge in the rest of the world. The Turkish Republic achieved sovereignty and equality not by rejecting a Pan-Islamic Caliphate diplomacy but, ironically, by benefiting from the revolutionary anti-imperialist application of this notion from 1914 to 1922 in collaboration with Germany and the Bolsheviks. Ottoman Pan-Islamism was not a nativist alternative to European law of nations. On the contrary, it emerged in the context of the crisis of imperial world order, and it was aiming to reform and tame that imperial international system rather than replacing with an Islamic world order.

The Lausanne Treaty of the 1923 was hailed by Muslim publics around the world as a great triumph against sinister European imperialism, racial discrimination and oppression of Muslim societies. It was also a settlement between the elites of the Turkish national government in Ankara and the power holders of the interwar period imperial world. Even though Persia and Afghanistan also gained their sovereignty partly through the Turkish settlement with the Western powers in 1923, Turkey's agreement with Allied powers meant that the Ankara government abandoned Arab struggles against the European imperial control and implementation of the Balfour Declaration's Zionist goal in Palestine under the Mandate regime. It meant that the compromise of sovereignty in the Northern Tier of the Middle East was not followed by any new Turkish visions to remake the world, a vision that scholars attribute to the agenda of anti-colonial Asian and African leaders in the post-WWII era of decolonization. The founders of the Turkish Republic embraced the deal they obtained in 1923 and ceased to challenge the Eurocentric imperial world. They also became cautious of upsetting their precarious legitimacy and avoided pushing a revolutionary agenda or anti-imperial mobilization once they received what they wanted, namely sovereignty. One reason for their caution may be the fact that all the major political leaders of the Republic received their formative education in either military or law schools where they were taught that the Ottoman

Empire was once an equal member of the European society but was gradually excluded due to its Muslim identity. They believed that the same exclusion could befall the young Republic, despite legal assurance of sovereignty at Lausanne. Furthermore, the Turkish Republic's leaders were aware of their position as one of the few sovereign non-Western states granted equality by the mid-1920s, and did not see any alternative bloc of Asian and African nations that they could belong to. Their only option was to cling to European international society. Thus, instead of advocating for a radical vision of a world of sovereign equality and the end to racialized empires, new Turkish elites preferred to bolster their legitimacy by distancing themselves from the colored races, the Muslim world and Asia through a systematic program of cultural Westernization.