

The Formulation of the Mecelle and Other Codified Laws in the Ottoman Empire: Transformation Overturning the Sharia Principles

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Abstract : The sharia had been the legislative basis in the Ottoman Empire since its emergence. The authority of sharia was superlative in the Islamic society compared to the power of the sulta, the nominal ruler of the nation, regulating essentially every aspect of people's lives according to an ethical code. In modernity, however, as European sovereignty employed forces to re-engineer the Islamic world to make it more like their own, a society ruled by a state, the Ottoman legislation system encountered a great challenge of adopting codified laws to replace sharia with the formulation of the Mecelle being a prominent case. Interpretations of this transformation have been contentious, with the key debate revolving around whether these codified laws are authentic representations of sharia or alien legal formulations authorized by the modern nation-state under heavy European colonial influence. Because of the difference in methodology of the diverse theories, challenges toward having a universal conclusion on this issue remain. This paper argues that the formulation of the Mecelle and other codified laws is a discontinuity of sharia due to European modernity's influence and that the emphasis on elements of Islamic laws is a tactic employed to promote this process. These codified laws signals a complete social transformation from the Islamic society ruled by the sharia to a replication of the European society that is ruled by a comprehensive ruling system of the modern state. In addition to advancing the discussion on the characterization of the codification movement in the Ottoman Empire in modernity, the research also promotes the determination of the nature of the modern codification movement globally.

Keywords : codification, mecelle, modernity, sharia, ottoman empire

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