

tasavvur

tekirdag ilahiyat dergisi | tekirdag theology journal

e-ISSN: 2619-9130

tasavvur, Haziran/June 2020, c. 6, s. 1: 411-432

Law and Identity of the Druze Community in Mount Lebanon in the Late Ottoman Period

Osmanlı Son Dönemi Cebel-i Lübnan Dürzilerinde Hukuk ve Kimlik

Tuba YILDIZ

Dr., Trakya Üniversitesi, İlahiyat Fakültesi,
İslam Tarihi Anabilim Dalı

Dr., Trakya University, Faculty of Theology,
Department of Islamic History, Edirne, Turkey
tubayildiz@trakya.edu.tr

ORCID ID: 0000-0002-7152-4421

Makale Bilgisi | Article Information

Makale Türü / Article Type: Araştırma Makalesi / Research Article

Geliş Tarihi / Date Received: 26 Mart / March 2020

Kabul Tarihi / Date Accepted: 10 Haziran / June 2020

Yayın Tarihi / Date Published: 30 Haziran / June 2020

Yayın Sezonu / Pub Date Season: Haziran / June

Atıf / Citation: Yıldız, Tuba. "Law and Identity of the Druze Community in Mount Lebanon in the Late Ottoman Period". *Tasavvur: Tekirdağ İlahiyat Dergisi* 6/1 (Haziran 2020): 411-432.

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Abstract*

The Druze were a community outside the Ottoman-Sunni ideology, both in terms of rhetoric and legal principles. However, the Druze leaders had been the administrative representatives of the state in Mount Lebanon until the beginning of the 19th century and managed to hold the political authority. In addition, the Druze, who protected their traditional law had acquired the different identity in the "Nation System" -Millet Sistemi- of the Ottoman State. However the introduction of Tanzimat reforms in Mount Lebanon caused the Druze to go beyond the political paradigms in their identity definitions. Acting to complete its Ottoman identity with Islamic terminology, the community started to use their legal status as a legitimacy tool and tried to gain a legal place in the face of the state's changing reformist stance. This study examines the views of the Druze of Mount Lebanon on the identity problem that emerged in the last period of the Ottoman State and examines the measures taken by the community against the legitimacy concerns and the state's policy. In this context, the legal differences of the community were mentioned by giving some examples of Druze cases in their sources and in the Ottoman archive. In addition, the effect of the method followed by the state in sectarian politics on Druze was analyzed.

Keywords: Tanzimat Era, Law, Mount Lebanon, Druze

Öz

Dürziler, gerek itikadi açıdan gerekse de hukuki prensipleri bağlamında Osmanlı-Hanefi ideolojisi dışında kalan bir cemaatti. Bununla birlikte Dürzi liderler 19. Yüzyılın başlarına kadar devletin Cebel-i Lübnan'daki idari temsilcileri olarak siyasi otoriteyi ellerinde tutmayı başardılar. Bunun yanı sıra geleneksel hukuklarını da koruyan Dürziler, Osmanlı Devleti'nin sosyal yapısını oluşturan Millet Sistemi içinde farklı bir pozisyonda kimlik edindiler. Tanzimat reformlarının Cebel-i Lübnan'da uygulanmaya başlaması ise Dürzilerin kimlik tanımlarında siyasi paradigmalardan dışına çıkmalarına sebep olmuş, Osmanlı kimliğini İslami terminolojiyle tamamlamak adına hareket eden

* This article is produced from the PhD thesis titled "Sectarian Policy of the Ottoman Empire in Mount Lebanon and Law Practises (1839-1914)"

cemaat, hukuki statülerini bir meşruiyet aracı olarak kullanmaya başlamış ve devletin değişen reformist duruşu karşısında farklı bir hukuki yer edinmeye çalışmışlardır. Bu çalışma, Cebel-i Lübnanlı Dürzilerin Osmanlı Devleti'nin son zamanlarında ortaya çıkan kimlik problemine bakışlarını ele almakta, cemaatin meşruiyet kaygılarına karşı aldığı tedbir ve devletin hukuk politikasını incelemektedir. Araştırmada kendi kaynaklarında ve Osmanlı arşivinde yer alan bazı Dürzi davalarından örnekler verilerek cemaatin iç hukukuna değinilmiş, ayrıca devletin mezhep siyasetinde izlediği yöntemin Dürziler üzerindeki etkisi analiz edilmiştir.

Anahtar Kelimeler: Tanzimat Devri, Hukuk, Cebel-i Lübnan, Dürziler

Introduction.

In its expansion of territories shortly after its establishment, the Ottoman Empire shaped its political, military, economic and cultural building blocks while seeking to determine its legal system within a framework of a certain discipline. As a basic discipline in the systematization of law, the principles of Islamic Law and of the Hanafi sect were adopted as general and particular references, respectively. Accordingly, the Ottoman official ideology was formed around a "belief state" mentality, and state organisms were integrated into religion to enable religion to encircle the state agencies and in this way religion and the state became inseparable parts.¹ At this juncture, a sectarian characteristic emerged in the Ottoman political tradition where the administrative and legal system was broadly based on this sectarian ideology. In this way, the Sunni understanding which was the political identity of the Islamic ideology of the state, and the school of the Hanafi sect, which constitutes its legal identity, constituted the fountainhead of this ideology.

Within the framework of such ideological approach, the question arises of how the Ottoman Empire determined the political and legal statuses of various religions and sects, which existed in the Arab regions of the Empire, within the state's own "Sunni / Hanafi" perspective. The different religious groups, which were integrated into the Empire after the conquest of Egypt and Syria by Yavuz Sultan Selim at the beginning of 16th century resulted in

¹ Ahmet Yaşar Ocak, *Osmanlı Toplumunda Zındıklar ve Mülhidler:15-17. Yüzyıllar* (İstanbul: Tarih Vakfı Yurt Yayınları, 1998), 84.

the need for Ottoman statesman to address sectarian policy in a different way, where the legal statuses of these groups had to be redetermined within the scope of the principles of Islamic law. One of these groups was non-Sunni Muslim communities, such as Druze, Nosayris and Yazidis. Others were non-Muslim groups which lived alongside the Muslims in the same territories for many years and which had many common features in their language and culture. The state established their legal mechanisms within the social conditions under which each group lived.

One of the most prominent regions that represented the relationship between sect, law and politics among the Arab regions was undoubtedly Mount Lebanon. With the expansion of its borders in the historical process, Mount Lebanon was populated by communities of various religious groups, such as the Druze, Maronites, Shiites -Metawiles- Sunnis, Greek Orthodox, Greek Catholics and Armenian Catholics, in addition to ethnic groups such as Arabs, Kurds, Armenians and Syriacs. Since such intensely divergent sectarian categories existed there, Mount Lebanon is understood to have great historical and political importance due to such religion-centered social stratification. At the beginning of the 16th century, the villages of Mount Lebanon, which were considered the "broadest one of tribal territories"², were divided into muqataa'hs³ by Tripoli-Jubail in the north and Saida-Dairu'l Qamar line in the south. These villages were administered by powerful families who were familiar with the traditions of the territory. The most crucial feature of these families was that they drew their political strength from sectarian ties. Again, in this regard the prominent ruling families who held economic power determined their legal system through their sectarian connections. In this way, a multiple legal system management style emerged and prevailed in Mount Lebanon.

² Carol Hakim, *The Origins of the Lebanese National Idea* (Los Angeles: University of California Press, Berkeley, 2013), 16.

³ This term was used by the Ottoman financial administration for tax farms or rental contracts and for dividing state revenues into smaller revenue portions whose collection was farmed out to individuals for a mutually agreed upon price. Gabor Agoston, Bruce Alan Masters, *Encyclopedia of the Ottoman Empire* (Infobase Publishing: 2010), 396.

The Ottoman Empire, which was not willing to undertake the burden of managing Mount Lebanon from a single center, turned the Mamluk's *niyabat* systems into *eyalats* from conquest until the 19th century and did not make any major administrative changes except for adding *sanjacks* to Damascus and Aleppo. Rather, the state allowed prominent families to remain the leaders in order to keep the strategic areas under control, and the state preferred not to interfere in their political and legal systems as long as they were paying their taxes and were not endangering state security. In this way, the leaders who held the *muqataa'hs* had political and social autonomy in Mount Lebanon, even though they were subordinated to Ottoman officials.⁴ The other *ayan families*, who were helpers of the leader -Amir-, had limited economic and armed power, but they ensured security and controlled the collection of taxes.

In such an administrative system, although they belonged to different regions, such as Tripoli, Damascus, and Saida, the *muqataa'hs* were united under the same political framework. However, this union was neither determined within the framework of administrative or legal laws, nor was it attempted in order to obtain geographical integrity for political stability. The boundaries of the Emirate expanded or shrunk depending on the military and political power of the Emirate, and autonomy protected itself towards this end. Therefore, it was not possible to consider a certain region and changing the laws regulating Mount Lebanon for many centuries. In the judicial system, criminal law cases were pended by the Druze leader and his officials, and the judge was appointed by the leader himself, while family law cases were pended by religious leaders of the sects. Nevertheless, solved cases were submitted to Druze judges, and they approved cases as representatives of Hanafi judges in the Ottoman Empire. The fact that official judges were chosen from the Druze sect demonstrated the state's recognition of the importance of relationships between the authority and law.

The most important factor that formed the political agenda in Mount Lebanon in the last century was undoubtedly the sectarian conflicts. The two major conflicts, which occurred between the Druze and Maronites in 1842-1845 and in 1860-1861, led to judicial as well as political and military transfor-

⁴ Hakim, *The Origins of the Lebanese National Idea*, 14.

mations, and the Ottoman Empire had to formalize sectarian policy and sectarian law in the region for the first time in its long history. Furthermore, the new legal arrangements brought about by the Tanzimat reforms, which were declared in the same period, impacted the new judicial system in Mount Lebanon, which was established following the conflicts. The new system brought about the formalization of all sects in the region, and the limitation of the Druze qadi's legal authorities to their own sects.

This study examines the legal transformation of the Druze community, who were Muslim but non-Sunni and who played a very significant role in Mount Lebanon until the 19th century, within the framework of the sectarian politics instituted by the Ottoman Empire during the Tanzimat period. The study aims to uncover the political mentality behind the legal practices of the Druze by examining the Druze faith and the legal principles they adhered to on account of their faith. The study also plans to analyze the influence and impact of judicial matters of the Druze on the Ottoman administration system and the understanding of the Empires' policy on their community. The differences between Ottoman and Druze legal principles will be analyzed below. The main focus of the study is how the Druze used law as a language of legitimacy in relationships with the Ottoman state during the Tanzimat period.

1. The Druze Sect and Their Faith

At the root of Druze belief is the idea that all previous religions sent by God were abrogated, explained by Ismailism, a branch of Shiism.⁵ Along with being adherents to Shiite ideology, Ismailis emerged as a group claiming that the *imamet* (Muslim leader) was handed down from Jafar-i Şâdiq, who descended from Ali, to his son Ismail. By refusing to accept the *imamet* of Musa, the other son of Jafar-i Şâdiq, they dissented from the Twelver Shiites. Here, the Druze faith emerged as one of the sects grounded in Ismaili doctrine for its principles, but distinct from Ismailites due to their ideological perspectives and differences. In 1071 the Druze community, believing in the divinity of

⁵ Ahmet Bağloğlu, *İnanç Esasları Açısından Dürzilik* (Ankara: Ankara Okulu Yayınları, 2004), 9.

Hakim bi Amrillah as the sixth caliph of the Fatimis, began to spread in Egypt as followers of a new sect under the leadership of Hamza bin Ali.⁶

The main factor contributing to the emergence of the Druze faith was the ideology originating from Hamza bin Alis' attribution of the godhead to Hakim bi Amrillah and the subjection of beings created by Hakim to a divine category. The belief that Hakim could not be defined by any kind of attribution, and that his essence did not resemble anything and that he was unique, became the main dogma of the sect, thus the sect established its own principles and structure by separating itself from the Ismailites.⁷ At this point, Hakim bi Amrillah was accepted as the 72nd human body in which God manifested himself, and the Druze belief began to take shape within a framework of this very belief.⁸ In addition, in the context of the belief system built upon the unity of God, his eternal quality and everlastingness, and his being far beyond the soul and body, which were definitive concepts for human beings, the Druze tried to show that they had created a separate doctrine within the conceptual framework by identifying themselves as "Mowahhedoon".

Another aspect that formed the creedal basis of the Druze was the idea that all other religions had been abrogated. Accordingly, all religions and all sects connected to these religions lost their validity after God manifested himself in Hakim's body.⁹ At this juncture, an important matter became evident in accordance with the aforementioned creed, as a branch of the sect which stemmed from the religion of Islam, it turned out that the Druze faith had also abrogated Islam itself. According to the belief, Christianity ended with the birth of Islam, and the principles of Islamic religion disappeared with the birth of the Druze faith.¹⁰

The authority that constituted the religious representatives of Druze ideology is Meshayikhu'l Aql formed by the Shaykh Aqls. The sheikhs, known as *Ukkal* or *Ecevit*, were the ones who knew the secret of the religion and fulfilled

⁶ Silvestre De Sacy, *Medhal ila Diyaneti Dürüz*, trs. İsa Tannus (Damascus: Ed-Darü'l Vataniyye Cedide, 2011), 376.

⁷ Bağlıoğlu, *İnanç Esasları Açısından Dürzilik*, 155.

⁸ Aytekin Şenzeybek, *Ana Kaynaklarına Göre Dürzilik* (Emin Yayınları, Bursa: 2012), 53.

⁹ Şenzeybek, *Ana Kaynaklarına Göre Dürzilik*, 295.

¹⁰ Şenzeybek, *Ana Kaynaklarına Göre Dürzilik*, 296.

the orders and prohibitions of the Book of Wisdom (*Resailü'l Hikme*), the holy book of the Druze. The Ukkals came together to learn the secret of the Druze creed in the Halawathanas, the place where Druze worshipped.¹¹ Those who were outside this class were called *Juhhal* and could not reach the position of perfection and nor have a grasp of the requirements of the sect. In order to reach the Ukkal rank, the Juhhals must undergo a long period of self and physical examination. At this stage, the result of the test depended on the decision of the Shaykh Aqls.

2. The Druze in Mount Lebanon

The presence of the Druze community, who were the long-term rulers of Mount Lebanon, existed through the Tannukhis, which was a branch of the Yemeni Qudāa tribe and the first actors in Druze political development in Lebanon. Right after the Arab conquests, the Tannukhis began to settle in Syria and, before the Islamic *tabligh*, some lived as pagans and others as Christians. In the eleventh century they converted to the Druze sect under the favour of envoys sent by Mukhtena Bahaeddin, who was one of the religious leaders of the sect. The socio-political basis of the Druze was thus laid down first in Aleppo through the Crusaders and then in South Lebanon through their immigration to Shuof.

Another Druze family, which was strengthened after the weakening of the Tannukhis in the 16th century, was the Maans, who expanded their spheres of power by extending their control to Kesroan and Matn along with Shouf by means of political maneuverings. After the Ottoman conquest in 1516, while ruling over Mount Lebanon harmoniously with the Ottoman Empire, the Maans began to control other sectarian groups politically through their pragmatic approach. Thus, especially after Fahreddin II. Maan, Druze Amirs were accepted as sole leaders in the region. The Shihabi family who ruled over Mount Lebanon after the Maans became the most powerful rulers from the beginning of the 18th century to 1842, when the great conflict occurred.

The reason that Shihabis had an important place in the history of the Druze was because of their dominance over all of Mount Lebanon, including

¹¹ Muhammed Kamil Hüseyin, *Taifetü'd Dürüz: Tarihuha ve Akaiduha* (Cairo: Mektebetü'l Diraseti't-Tarihiyye, 1962), 36.

Beirut, and because they maintaining the balance among the sects very well. Since Shihabis were not Druze, they knew neither the rituals of the sect nor the relationship between religion and politics of the Druze amirate. Additionally, because they had immigrated from Wadi al Teim, they were inexperienced with the mountain social structure. Therefore, they needed support from Druze *ayans* in order not to set their political control on slippery ground.¹² At the same time, the Shihabi collaboration with the Druze and Maronite families was required for stability in the region. The stable administration of the region was very crucial for the interests of the Ottoman Empire and was why the leaders could not be unconcerned with the state's interests. For this very reason, the Shihabis could both maintain their power through making a good agreement with the governors of the region and ensure the balance of stability by respecting and accomodating the political, religious and legal priorities of the sectarian groups.¹³

In light of the aforementioned developments, Druze and Maronite land tenants of the Ottoman Empire became a part of the administrative system, and under the rule of the Shihabis, each them began to have a voice in the administration through being responsible for the economic and legal issues of the muqataa'hs they owned. Nevertheless, the Shihabis were defined as sole leaders of the region, and by the end of 18th century Shihabis were considered the "Sultan of the Mount" not only by the local community and the Ottoman Empire but also by European states.¹⁴ Emir Bashir II, the most prominent member of Shihabis and the last Shihabi Amir of the region, maintained this successful policy until 1832, and he brought both political and economic prosperity to the region. Along with conversion of Sunni Shihabis to Maronite faith, the situation served much to advance the interests of the Maronites. However, with regard to military and political power, the Druze succeeded to remain as the sole power in the region. For this reason, despite which sect the Amir belonged to, Mount Lebanon continued to be called Druze Mountain.

¹² Philip Hitti, *A Short History of Lebanon* (New York: St.Martin's Press, 1965), 167.

¹³ Yasin Süveyd, "El İmaratü'ş-Şihabiyye fi Cebel-i Lübnan", *Lübnan fi Tarihihi ve Turasihi*, ed.Adil İsmail (Beirut: Merkezü'l Hariri El Sekafi, 1993), 308.

¹⁴ Kemal Salibi, *A House of Many Mansions* (University of California Press; 1990), 68.

3. Legal Legitimism of the Druze in the Ottoman Sectarian Policy

As mentioned above, to a large extent the Ottoman Empire completed its judicial institutionalization according to principles and procedures of the Hanafi school of law. Nevertheless, since the Ottoman State did not have any commitment to Hanafi rules in the beginning of the emergence of the state, the interpretations of the other three schools of law, i.e., Shafi, Hanbali and Maliki, were incorporated and allowed to weigh in on judgement accordingly when needed.¹⁵ Other sectarian views were also applied from time to time in Ottoman courts until the 16th century, which confirms this claim. However, it is important to underscore that these implementations were limited, and plaintiffs did not have the right to choose any judge among the four schools.¹⁶ Beginning in the middle of the 16th century, it was declared clearly in the qadi's fatwa and the mufthi's manshurs that judgement had to be rendered only by the Hanafi sect. From that point on, the tolerance given to the other Sunni schools was denied and has remained so after that century.¹⁷

The strict Hanafi sect implementation began in the 16th century and was valid in Anatolia and Rumelia. In regions such as Makkah, Madinah, Quds, Cairo and Aleppo in places where the majority of people did not belong to the Hanafi sect, qadis of other sects were appointed under the direction of the Hanafi judge, so that these people were given the opportunity to resolve their legal disputes according to their own sects.¹⁸ However, the Ottoman state allowed for different implementations in the Arab regions only within the scope of the other three Sunni sects. In another words, for judges, it was not possible to go beyond Islamic law principles except in accordance with the other sects. Furthermore, instead of immediately changing the legal system of regions they had conquered and leaving the local people with a completely strange new legal system, the Ottoman state preferred to allow existing law and traditions to continue for a period of time and then to gradually integrate its own legal principles into the existing law and traditions.¹⁹ But the acceptance of

¹⁵ Mehmet Akif Aydın, *Türk Hukuk Tarihi* (Istanbul: Babil Yayınevi, 2018), 99.

¹⁶ Aydın, *Türk Hukuk Tarihi*, 100.

¹⁷ İsmail Hakkı Uzunçarşılı, *Osmanlı Devleti'nin İlmiye Teşkilatı* (Ankara: Türk Tarih Kurumu Yayınları, 2014), 245.

¹⁸ Hayreddin Karaman, *Modern Problemler Karşısında İslam Hukuku*, (Istanbul: Nadir Kitap, 1972), 72.

¹⁹ Aydın, *Türk Hukuk Tarihi*, 75.

existing law was conditioned on the fact that customary law should not contradict Islamic law. Thus, the state envisaged the application of principles of Islamic law to all sections of the population.

The question arises of how the legal legitimacy of the Druze sect, which could be considered heterodox, was defined from the perspective of the state. For the Ottoman State, the Druze were a community who had an Islamic identity, but some principles in Druze law were outside of Islamic law and their implementations contradicted the Quran and the Sunnah. These contradictory principles included family law codes, such as marriage, divorce and inheritance, which were developed by the Druze to be consistent with social norms. For example, while in Islamic Hanafi law it is legal for a Muslim man to marry a non-Muslim woman, in Druze law non-sectarian marriage is strictly forbidden, and a Druze man is not allowed to marry a non-Druze woman even if she is a Sunni Muslim. In addition, while it is permissible for a Muslim man to marry more than one woman, the Druze don't consider it appropriate, as they think that it would destroy the moral values of the society.²⁰

Another difference between Hanafi and Druze law is on the issue of divorce. In Druze law if spouses are separated, they are not permitted to get back together again.²¹ This heavy condition is stipulated to prevent the destruction of the family system and the disintegration of the self-enclosed group. Because they see divorce as a serious decision, the Druze don't accommodate instances of divorce such as *bain talak* (a type of divorce which was irreversible without a newly determined amount of *mahir*) and a new marriage contract or *ric'i talak* (a type of divorce that allowed the spouse to change his or her mind and return home within the first three months) included in Islamic law. Therefore, even if spouses wish to remarry after divorce, the provision is considered superstitious and avoided by default.²²

The sharpest distinctions between Hanafi and Druze law appears on the issues of the will and inheritance. For example, in Hanafi law the inheritance

²⁰ Yusuf El Avar, *El Ahvalü'ş-Şahsiyye Dürziyye İlmen ve İctihaden* (Beirut :y.y., 1982), 28.

²¹ El Avar, *El Ahvalü'ş-Şahsiyye Dürziyye İlmen ve İctihaden*, 28.

²² Ahmet Bağloğlu, *Orta Doğu Siyasetinde Dürziler* (Elazığ: Fırat Üniversitesi Orta Doğu Araştırmaları Merkezi Tarih Şubesi, 2006), 121.

right of a daughter is determined regardless of her marital status. By contrast, the inheritance right of a daughter isn't recognized by the Druze and was strictly denied in Mount Lebanon.²³ The vast majority of inheritance cases where Druze law diverged from Islamic inheritance law was the deprivation of inheritance rights for daughters.

When these three issues, which are in the scope of family law, are considered, it can be seen that it was not possible for the Ottoman state to accept Druze legal principles within the framework of its own legal parameters. Aharon Layish therefore concluded that the Druze never participated in the status of nation (*Millet*) and commented that the community was under pressure and persecution not only politically but also because of their legal rights and the way that they maintained their religious lives. According to Layish, when the Druze were under Ottoman rule, they brought their cases in family law to Sharia courts and resolved their cases before the Sunni qadi. The reason for this was not that they were adopted as Muslims, but rather that they had to apply to the Ottoman court because they had not been granted any religious status.²⁴ However, aside from the discussion of the formalism and the weight of the sect in Ottoman law, cases were found where non-Sunni sects such as the Druze were obligated to be subject to Hanafi doctrines or, if reasons existed to justify these obligations, had practical implications in legal practice.

In the beginning of the 17th century, the given judgement of the result of applying a Druze family to the qadi manifested the fallacy of aforementioned claim. A case which was pended in 1697 was where Druze Abu Shahin Muhammad applied to qadi Muhammad Sharafuddin for distribution of the inheritance left by his brother Mansur. In the will the inheritance was completely handed down to male members of the family, and there was not the slightest reference about female members of the family. In acting in accordance with the will, the qadi concluded that daughters would have no share of the inheritance. And the phrase "*in accordance with the ancient custom*" mentioned

²³ Hasan Emin, Beayni, *Cebelü'l-Arab: Safahat Min Tarihi'l-Muvahhidin Ed-Dürüz (1865-1927)* (Beirut: Menşuratu Uveydat; Darü'n-Nehar, 1985), 99.

²⁴ Aharon Layish, "Islam as a Source of Law in The Druze Religious Courts", *Israel Law Review* 14/1 (January, 1979), 13.

at the end of the case was a clear implication of the weight of tradition on the legal system in 17th century Mount Lebanon. Although Druze qadi Muhammad Sharafuddin was present for the application of the Hanafi legal system as a representative of Qadi'l-Qudat in Damascus, the requirements in the will were followed and daughters were deprived of inheritance by the Druze legal system.²⁵

There are numerous instances which demonstrate that the Druze solved their issues of family law in accordance with their own principles. In this way, legal rules of the Druze were internalised in Ottoman sectarian policy, and by expanding its legal norms the state clarified that it recognized the Druze legally. The dimension of the issue in the Ottoman administrative system was even deeper. Until the Tanzimat, the legal system of Mount Lebanon operated outside of the Ottoman administrative system and the qadis were not appointed directly by the center. Here, it was demonstrated that the Ottoman state accepted the general legal hierarchy of the region and did not impose any coercive implementation. The legal system of Mount Lebanon was run by the Druze Amir, the qadi appointed by the leader and *ayan* families.

The Druze qadi, who was considered competent and qualified by the local people, on the one hand, established a symbiotic relation between secular and religious authorities of Mount Lebanon, but on the other hand he pended cases of inheritance, and land and property possession and their loans in the Sharia court of Dayr al-Qamer.²⁶ Principally, the issues involving the social and legal rights of people, such as marriage contract, divorce, alimony, custody, and transfer of inheritance, which were listed under the title of personal status (*ahwal-i shahsiyya*) were handled by religious leaders of sectarian groups. For these very kinds of issues, while the authority of the Druze was a sectarian qadi and from time to time Shaykhu'l Aqls, for other groups, the responsibility was handled by spiritual chiefs. Nevertheless, in the case of a deadlock between the parties or an objection raised by one of the parties in terms of the aforementioned issues led the case to be transferred to the qadi appointed by

²⁵ Süleyman, Ebu İzzeddin, *Masadir Tarih Lübnani: Vesaik Muntasifi'l Karni's Sabi' Aşar ila Seneti 1860* (Beirut: Merkezü'l Vatanî Li'l Ma'lumat ve'd Dirasat, 1995), 33-35.

²⁶ Ussama Makdisi, *The Culture of Sectarianism: Community, History, and Violence in Nineteenth-Century Ottoman Lebanon* (Berkeley: University of California Press, 2000), 39.

the leader.²⁷ Appointed qadis carried authority in the whole region and they delivered judgements in cases of financial, criminal and sectarian issues.

From the Ottoman perspective, the main objective here was acceptance of the formality of Druze qadi. The sultan did not only approve Druze law but also placed Druze qadi in his own system and did not require judgements to be approved by another court. Nevertheless, the only thing which was demanded of Druze qadis was being qualified in Hanafi law. Hence, as mentioned above, Druze qadi had the characteristic of being the representative of the qadi in Damascus and were to render judgments in accordance with the Hanafit law when necessary. Thus, the Druze, who had political authority in Mount Lebanon, also became the sole competent authority in matters of law, and even though the sect of leader of the Mount changed, the legal representative remained Druze.

4. The Transformation of the Druzes Legal Positions During the Tanzimat Period and after the 1860 Conflicts

In the 19th century there were two main factors which impacted the transformation of the political and legal identities of the Druze, the reforms that the Ottoman state had started to implement in the center and outermost regions by establishing Tanzimat and Islahat, and the two major conflicts in 1841 and 1860, respectively, which damaged relations between Druze and Maronites even though they had lived peacefully together for centuries. Both factors led the Druze to reinterpret their own understanding of identity in the context of the internal dynamics in Mount Lebanon as well as the new meaning that the Ottoman state had imposed on religion in relationships with the people of the state. The Druze therefore entered into an effort to legitimize their religion and law to the eyes of the state by shifting their lost power in the political arena to the legal arena.

The political power of the Druze came to an end with the double Qaima-qamaite regulation which was established right after clashes in 1841 that broke out between Druze and Maronites in Mount Lebanon. According to the newly established administrative system, the Emirate system dominated by

²⁷ Süleyman Takiyüddin, *El Qada Fi Lübnan* (Beirut: Dârü'l-Cedid, 1996), 26.

the Druze disappeared and the district governorships subordinated to the Wali of Saida emerged, thus the Druze were limited to govern only in provinces where their population was significant. In other words, the bureaucratic structure of the new regulation destroyed the political authority of the Druze and they began to be governed from the center, represented by councils chaired by district governors.

For the Druze, the loss of power was not limited to the realm of administration. According to the regulation, cases were to be adjudicated by judges from all sects in the council, and Druze judges were only to pend their inner cases related to family law.²⁸ With this article, both the authority of the Druze judge to approve cases which existed in the whole region, and the powers of the Druze families to resolve cases such as debts and land problems, were taken away. Moreover, an important detail was noted in the regulation which gave the right to those who refused the decision of their judge believing that they would be victims to complain to the district governor, and the governor could pend the cases by himself or with two or three other judges. Thus, if there was an objection to the results of a case, as a closed group, the Druze community was obligated to accept the mutual decision given by the other judges to their legal problems.²⁹ That is to say, even though they had won the conflict, the Druze began to lose their legal as well as political authority. The result of this both showed the intention of the Tanzimat edict that the Ottoman state did not recognize only a solid authority in the region within the framework of its new central politics and corresponded to the impact France had on the Maronites in the eyes of the Ottoman State.

In addition to the influence of a new political understanding which developed along the axis of Tanzimat, the Druze, who lost the clash in a diplomatic way, began to redefine their relationship with the Ottoman state within a religious framework. Confining the competence of the Druze judge only to his sect was directly related to his losing political authority. For this reason, the Druze were required to show their tendencies to "*Ottomanism*" within their legal identity as well as their political identity through embracing Ottoman

²⁸ Osmanlı Arşivi (BOA), *Bâbîlî Evrak Odası Gelen Giden Defterleri* [BEO, GG], No. 1013, Gömlek No. 17.

²⁹ Osmanlı Arşivi (BOA), *Bâbîlî Evrak Odası Gelen Giden Defterleri* [BEO, GG], No. 1013, Gömlek No. 17

law. As a result, in integrating their loyalty to the state on a legal axis, the Druze began to ignore their family code from time by time and resolved the cases according to Hanafi law. In a case in 1846, they pended a land case according to Hanafi principles rather than traditional rules and the emphasis on Imam Azam Abu Hanifah, and signaled an innovation for the resolution of disputes between Druze.³⁰ The same result appeared in an inheritance case in 1848, where Wardeh, a Druze woman, won the case and had her pour-party (share from the inheritance) in accordance with the Hanafi sect, when it was forbidden for daughters to get a share of the inheritance as described above.³¹

On the other hand, the Ottoman State went through a political change in its sectarian policy in favor of the Maronites in Mount Lebanon in the 19th century and preferred to maintain a balance between the Druze and Maronites by incorporating the Druze more in the legal system. According to the regulation the condition that important cases should be forwarded to Istanbul determined more clearly its judicial policy by taking a closer look at Druze cases. For example, in a criminal case in 1848 between the Druze and Maronites, the Islamic identity of the Druze was asked by the Sadaret, and the Sadaret sent his answer by underscoring that the Druze were part of Ahl al-Islam.³² Thus, the state provided the religious protection which the Druze anticipated. In this way, the state emphasized the legal statuses of sects in Mount Lebanon and pointed a way for the Druze to approach the center through adopting more of an Islamic identity for the state.

The final result concerning the political and legal status of the Druze in the Ottoman state system emerged in the Mount Lebanon Reglement which was established right after the 1860 conflict. First of all, Druze leaders handed over administration of their land to the Christian Mutasarrifate. As a result, all authorization of Druze families was cancelled, and the traditional political understanding of Druze dominance was completely destroyed. The articles relating to judicial regulations of the reglement indicated that the sectarian status of the Druze was being regulated according to a new order. Because Mount Lebanon was now part of a sectarian system, the judicial powers of

³⁰ Ebu İzzeddin, *Masadır Tarih Lübnani: Vesaik Muntasıfı'l Karni's Sabi' Aşar ila Seneti 1860*, 309-311.

³¹ Ebu İzzeddin, *Masadır Tarih Lübnani: Vesaik Muntasıfı'l Karni's Sabi' Aşar ila Seneti 1860*, 321-322.

³² Osmanlı Arşivi (BOA), *Meclis-i Vükela Evrakı* [MVL], No. 31, Gömlek No.34.

judges and the legal status of the communities were constantly being questioned. Druze judges who held judicial power for centuries were the ones most affected. In fact, Druze judges had judicial authority in the whole region until the 19th century and had the authority to solve the cases of other sects. However, the legal areas of Druze judges were limited by the last reglement.

Nevertheless, despite the long period which passed after the reglement and the validation of Druze traditional law in family cases, the legal boundaries of the judicial powers of Druze judges could not be determined. For example, the crisis that began in the land of the Druze foundation - waqf- between vilayahs of Beirut and the Mutasarrifate in 1904 brought into question the legal reach of Druze judges especially in matters of waqf issues. Here, the aim was to resolve the confusion regarding the authority of Druze judges and to settle how sectarian courts could be evaluated within the scope of the reglement. In another words, the Sadaret tried to shape the limit of the authority of Druze judges through intervening in the issue at hand in the region. It went so far that the Sadaret even thought to establish a sharia court completely dependent on itself, in order to handle the judicial matters of the Druze. The thought was that the Druze would resolve their cases in sharia court like other Muslims and would be involved in the Sunni law formally.

However, such a political understanding could not be part of Ottoman central politics. For the Ottoman empire the legal freedom of the Druze was so important in integrating them into the state, and the system had been based on this idea for centuries. Therefore, restricting the Druze legally would have meant undermining their loyalty to the state. Additionally, the main differences in family law issues of the Druze had been accepted even though they were considered part of Ahl-al Islam. Ignoring the Druze legal system, which was established through combining traditional and social factors, would have been against the state's emphasis on "Ottomanism". For this reason, the Sadaret forwarded his final order to the governor not to interfere with the issues of family law of the Druze.³³ It went to the extent that at the beginning of the 20th century, the Ottoman state began to accept cases concluded by the religious leader - Shaykhu'l Aql- of the Druze even though they did not have

³³ Osmanlı Arşivi (BOA), *İrade Dahiliye* [İ. DH], No. 125, Gümlek No. 9/2.

legal authority until that time. No matter what the Druze were part of, the state and some implementations due to political and legal changes in the region could be ignored. As a matter of fact, in 1909 the result of a waqf case which was resolved within the framework of Druze's own implementations was accepted. The Shaykh Aql resolved the case which could not be resolved in court through establishing a supreme court, and despite many objections they began to conclude many similar cases in the same way, which is to mean, within the framework of their own authority.³⁴

However, the very issue did not mean that the Druze had an independent political and legal understanding apart from the Ottoman empire. But they spared no cost to protect their identity by using the legal way in accordance with conditions. For the Druze some cases, which depended on public cases, such as murder, injure or theft, should be resolved in Ottoman courts. But in context of their traditional authority, family law cases had to be pended in their own court in accordance with their law principles and by their judges. As a matter of fact, this thought was seen as reasonable by the state. Thus, in the 19th century, there was an attempt to place modern law in the state system, but tolerance to the communities was reflected in sectarian politics as a requirement of state law.

Conclusion.

The region of Mount Lebanon, which was dominated by the Ottoman Empire approximately for four hundred years, was the place of different sectarian communities proportional to non-Muslim communities living in other conquered territories with different religious cultural ideologies distinct from Sunni ideology. The Druze were an extension of the Ismaili branch of Shiism and were also a community outside of Sunni ideology. The Druze faith was one of the sects which were called heterodox because of their belief in the afterlife and the oneness of God, and other creedal differences and philosophies. As a consequence, the place of the Druze community in the Ottoman "Nation System" and their political positions and legal status became an issue in relation to the state's regime. This was because the state considered Druze within

³⁴ Engin Deniz Akarlı, "Lübnan'da İki Vakıf Davası Işığında Son Osmanlı Döneminde Hukuk, Cemaat ve Kimlik", *İlhan Tekeli İçin Armağan Yazılar*, (İstanbul: Tarih Vakfı Yurt Yayınları, 2004), 254-255.

the context of Ahl al-Islam and decided to exempt them from the jizya. Under such circumstances the legal issues of an Ahl al-Islam community should have been treated in accordance with Islamic law. However, the Druze had practices which were contradictory to Islamic law, such as marriage, divorce, inheritance and waqf, and for that reason the state should have determined sectarian policy accordingly.

It was for this very reason that when the Ottoman Empire conquered the territory of Lebanon, it recognized the dominance of Druze who were the owners of authority. And despite the sectarian diversity, politics in Mount Lebanon continued to be handled by the hands of Druze leaders. In addition, the Ottoman administration accepted the established law of the region and let cases be solved by Druze qadis. The situation also demonstrated that the state accepted the divergent principles of the Druze. It was a fact that the Ottoman Empire did not undertake an enterprise against the legal framework drawn up by the Druze regarding their domestic law. Despite the fact that their creed was outside of Islamic ideology, the state did not consider them Rafidhi and by not removing the legal mechanism constituting their legal system, the state showed that it rather preferred to be attentive and accommodating in order to preserve stability in the region.

It would be beneficial to indicate that this balanced approach of the Ottoman Empire suspended some claims in Ottoman law. The most remarkable was comments regarding the intensity in which the Ottoman Empire acted to preserve the Ahl al-Sunnah creed. Some studies, including Ottoman sectarian ideology, indicated that since the Ottoman Empire was a strict defender of Sunnism against Shiism in the power struggle with Safavids, ideologically the state exhibited a harsh attitude against opinions and actions opposed to Ahl al-Sunnah.

Beside the fact that political approach of the state against Ahl-al Sunnah was religion centered, here also the political reasons should not be ignored. The Druze creed investigated in the present study is out of the scope of Ahl al-Sunnah tradition, and it is one of the denominations which should have been followed up by the state in creedal and practical ways. The state interacted with the Druze only in instances of their unwillingness to pay taxes or as a

result of political attempts and rebellions by Druze leaders who rose up out of their ideals for independence. Otherwise, the state was not interested in the scope of Druze faith. This was because the state's main concern was control of a mountain region which was outlying and which had an ethno-religious mosaic. The Ottoman state needed an administrative order which was both subject to the state and with authority in the region. Towards that end, the state gave power to Druze leaders in Mount Lebanon which corresponded to its policy for Ottoman statesmen in rural areas. As a consequence, the Druze stayed in the "Nation System" and legally under the auspices of the state, and they were not considered an outside heterodox sect as claimed. In this way, even if Druze law could not find a place in Hanafi law, it was nevertheless considered legitimate in Ottoman law and the regional legal order was accepted as it was. As a matter of fact, a great number of cases demonstrate that Druze qadis were officially recognized by the state and were allowed to render decisions in accordance with Druze law, evidencing that the state considered them legitimate.

The crumbling of the effective political and legal systems in Mount Lebanon coincided with the problems of the 19th century. The conflict between the Druze and Maronites resulted in their losing power. Tanzimat modernization opened a state-centered door to define both the political and legal identities of the Druze. As a consequence, the dual district governorship system, which was established in 1845, not only dissociated the sects from each other but also necessitated the redetermination of the authorities of courts and qadis within the scope of Tanzimat law. In this process, with regard to Druze and Maronite communities, the judicial mechanism was made to operate under conditions which were the equivalent of sectarian identity in the Ottoman state. In the eyes of the Druze community, even if it declared equality between its subjects and Gulhane Hattı Humayun, the Ottoman State should have protected the Druze who were included in Ahl al-Islam.

On the part of the state, the relation between law and identity was a more sensitive point. On Mount Lebanon, the gap which came to light after Druze notables lost their political authority was filled by Sadarats' consideration of the Druze as part of Islam - *Ecza-i Islam*-. Inclusion of the Druze into their own legal system with Druze cases handled within the framework of the state's

policy of maintaining stability in the judicial system. In the end, a Druze identity was taking its place in a new judicial system.

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