Araştırma Makalesi / Research Article

From *Fiqh Matn* to Code of State: Shifting Representation of the *Multaqā* from the Seventeenth to the Nineteenth Centuries Ottoman World and Beyond

KASIM KOPUZ*

Abstract

Ibrāhīm al-Ḥalabī's (d. 956/1549) *Multaqā al-abḥur*, published in 1517, quickly became one of the most authoritative fiqh texts in the Ottoman Empire. Ottoman authors treated it just as fiqh text. In their early writings, Western scholars also represented the book to their audiences as a fiqh book. However, by the late seventeenth century onward, Western authors started to portray the book as a code of the state in the modern sense of a uniform law. Some Muslim scholars in the late nineteenth century fallowed the same path. Thus, the representation of the *Multaqā* shifted from being a fiqh text to a code of the state. This article traces the historical process of this shift and argues that viewing the *Multaqā* as a code of the state was a misrepresentation that emerged under the influence of the notion of a modern nation-state.

Keywords: Fiqh textbook, *Multaqā al-abḥur*, code of state, early modern law, Ottoman legal history.

Fıkıh Metninden Devletin Pozitif Hukuk Koduna Doğru: XVII. Yüzyıldan XIX. Yüzyıl Osmanlı Dünyası ve Sonrasına Doğru *Mültekā*'nın Değişen Sunumu

Öz

1517'de tamamlanan İbrâhim el-Halebî'nin (ö. 956/1549) *Mülteka'l-ebhur* kitabı kısa sürede geniş kabul gördü ve Osmanlı yazarları kitaptan hep *muteber* bir fıkıh metni olarak bahsettiler. Ancak *Mültekā*'dan bahseden Batılı yazarlar, XVII. sonlarından başlayarak kitabı bir devlet kanunu (hukuk kodifikasyonu) olarak sunmaya başladılar. Bu çalışmada İngilizce yazan Batılı yazarların söylemleri analiz edilerek *Mültekā*'nın sunumundaki kavramsal değişimin izi sürülmektedir. Sonuç olarak çalışmamızda modern devletin ortaya çıkışıyla yeniden üretilen hukuk kavramının Batılı yazarlar nezdinde *Mültekā*'nın sunumunu etkilediği ve bunun neticesi olarak metin modern devletin bir aygıtı olarak sunulduğu iddia edilmektedir.

Anahtar Kelimeler: Fıkıh metni, *Mülteka'l-ebhur*, devlet hukukî kodifikasyonu, erken modern dönemde kanun, Osmanlı hukuk tarihi.

* Assistant Professor, Marmara University, Faculty of Humanities and Social Sciences, İstanbul, Türkiye, ORCID 0000-0001-5329-4485 kasim.kopuz@marmara.edu.tr

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Introduction

This article[1] discusses the shift in the representation of the book of *Multaqā al-abḥur* (hereafter *Multaqā*) by Ibrāhīm al-Ḥalabī (d. 956/1549) from being a *fiqh* book for everyday practices to an official "code of the state" in the writings of English-speaking Western authors from the late seventeenth to the nineteenth centuries. I first discuss the emergence and the significance of the *Multaqā* as a central fiqh textbook (*matn*)[2] within the Hanafi establishment and analyze how Arab and Ottoman writers represented the work. As a fiqh textbook, I argue that the production of the *Multaqā* occurred within the literary and disciplinary dynamics of authorship in Hanafi fiqh. Hence, historians and the authors who evaluated the book in their works, including in bibliographical dictionaries and judicial commentaries,[3] spoke about the *Multaqā* as a fiqh textbook. For these authors, the book was significant within the context of the fiqh discipline—comprehensive but concise and just as authoritative as traditional texts but innovative for its inclusion of new elements. Thus, in the discourses of these authors, as shown below, the book signified a work of scholarly intellectual activity independent of the state, a "civil"[4] intellec-

1 This article is developed from a chapter in my dissertation: "Reproduction of the Ottoman Legal Knowledge: The Case of Ibrāhīm Al-Ḥalabī's *Multaqa al-Abḥur* and Defining the Concept of *Baghy* in Commentarial Writings on it (16th To 18th Centuries)," by Kasım Kopuz, PhD diss., Binghamton University (State University of New York), 2019. Hereafter "Reproduction of the Ottoman Legal Knowledge." I presented a preliminary article on the same topic at the following symposium: Osmanlı'da İlm-i Fıkıh/Osmanlı'da İlimler Sempozyumu Dizisi II: Alimler, Eserler ve Meseleler. ISAR, Üsküdar/İstanbul, Aralık 24-25, 2016.

2 A *matn* is an Arabic term for a written text. After the development of Islamic sciences, the term was used for a recognized, authoritative, and canonical text in each discipline. A matn in each discipline is used for pedagogical reasons in madrasa curriculum as a textbook as well as for reference. In fiqh, each school of law has its own canonized concise matn, used as a textbook, that contains norms for both daily ritual practices (*'ibādāt)* and everyday transactions (*mu'āmalāt)* for Muslims. *Multaqā* is such a matn in Hanafi fiqh. For further information on matn, see Arent Jan Wensinck. "Matn", *EI²*, 8:162.

3 A full commentary on a textbook is called *sharḥ* in Arabic. It is a genre in Arabic authorship in Islamic disciplines. There are various commentarial writings that explain further details of the main text in any of the Islamic disciplines. See, for commentary: Claude Gilliot, "Sharḥ", *EI²*; for commentarial writing in Islamic law see Eyyüp Said Kaya, "Şerh" in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (hereafter *TDVİA*). For commentaries on the *Multaqā,* see Kopuz, "Reproduction of the Ottoman Legal Knowledge."

4 The word "civil" is used here to mean a non-governmental but organized activity of learning and teaching by the scholars of premodern Ottoman society. As discussed below, Ibrāhīm al-Ḥalabī was not an official member of the Ottoman ulama hierarchy. He was not appointed as a professor at Ottoman madrasas. His only official →

tual endeavor. When the Western authors of early modern Europe wrote about the *Multaqā*, they represented the book as though it were a fiqh book used to practice Islamic law in everyday life. This representation, however, changed between the late eighteenth and the nineteenth centuries, when Western authors started to write about the *Multaqā* as a "code of the state."[5] Thus, within the context of the emergence of the modern state[6] and the formation of a new mode of absorbing the law into the state, the *Multaqā* came to be defined in relation to the Ottoman state. In the writings of early modern Western authors, the *Multaqā* was taken out of its natural context—where it was produced by "civil" scholarly circles

work was to lead prayer and give Friday sermons at the Fatih mosque, which was not a position of ulama rank in the Ottoman higher educational system. See, for the Ottoman official higher educational system (*madrasa*) and the nature of the official ulama establishment in the Ottoman state: Abdurrahman Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire* (Cambridge: Cambridge University Press, 2018); İsmail Hakkı Uzunçarşılı, *Osmanlı Devleti İlmiye Teşkilâtı*, 2nd ed. (Ankara: Türk Tarih Kurumu, 1984); Colin Imber, *Ebu's-Su'ud: The Islamic Legal Tradition* (Stanford: Stanford University Press, 1997).

5 From early Islamic history, reports exist that highlight the Abbasid caliphate's effort to designate a specific book of fiqh as a uniform law of the Islamic state. The earliest of such reports was written by historian Ibn Sa'd, who reports that the second Abbasid caliph, Abū Ja'far al-Manṣūr (r. 754-775), asked Mālik b. Anas (d. 795), jurist of the Madina and the founder of Maliki *madhhab*, to have his book of al-*Muwaṭṭa*' copied and sent to the cities of the caliphate. He said that he wanted to order his Muslim subjects to follow the legal rulings that were contained only in the book of al-*Muwaṭṭa'*. Reports also show that other caliphs had pronounced similar orders. However, none of those attempts succeeded because the author of the *Multaqā* argued against the caliph's demand, noting that Islamic law is irreducible to one book of legal opinions; other jurists' opinions are equally valid. See, for the reports that relate to the *Muwaṭṭa*'s being asked to be a uniform legal text for the entire state: Yassin Dutton, *The Origin of Islamic Law: The Quran, The Muwaṭṭa and Madinan 'Amal* (New Delhi: Lawman Private Limited, 2000), 29-31. Although the authenticity of these reports might be debated, the idea of a "uniform law of the state" was raised in early Islamic writings and was rejected, at least in reports as early as the third century of Islam. I would also add that the nature of the premodern state as different from the modern state does not invalidate the concept that is discussed here. See: Ibn Sa'd, *al-Tabaqāt al-kubrā li-Ibn Sa'd: Qism mutammim*, ed. Ziyād Muḥammad Manṣūr (Madina: Maktabat al-'Ulūm wa al-Ḥikam 1987), 440.

6 For a thorough analysis of the emergence and development of the modern state, see Gianfranco Poggi, *The Development of the Modern State: A Sociological Introduction* (Stanford: Stanford University Press 1978); *The State: Its Nature, Development and Prospect* (Stanford: Stanford University Press 1990). For variant approaches to state formation, see Graeme Gill, *The Nature, and Development of the Modern State* (New York: Palgrave Macmillan, 2003); John A. Hall and G. John Ilkenberry, *The State* (Milton Keynes, Open University Press, 1989). For a discussion of fiqh in relation to the modern state, see Wael B. Hallaq, *The Impossible State, Islam, Politics and Modernity's Moral Predicament* (New York: Columbia University Press, 2012).

and then studied and practiced by Ottoman subjects—and repositioned in the hands of the modern state, a sort of a modern leviathan. These authors' understanding of the *Multaqā* as a code of the state reflected emerging statist approaches to law in general and to the *Multaqā* in the specific case of the Ottoman state. Below, I briefly introduce the emergence of the *Multaqā* as the most authoritative fiqh textbook (*al-mutūn al-mu'tabara*) in Ottoman society and then analyze its representation in the writings of the Western, primarily English-speaking authors.[7]

Ibrāhīm al-Ḥalabī and *Multaqā al-abḥur*

On August 21, 1517, one of the hot summer days in the Ottoman imperial capital of Istanbul, Ibrāhīm al-Ḥalabī freed himself from the task of completing a new book of fiqh, *Multaqā al-abḥur* as a textbook to teach fiqh to students of sharia. Shortly after being serviced for students and scholarly circulation, the book became one of the most authoritative fiqh books among the legal scholarly circles in the empire. At the time of writing the book, al-Ḥalabī may not have thought that soon, his book would be one of the most used "matn" amongst the Ottoman scholars, students, judges, and *muftī*s.[8]

The book enjoyed a strong reception in a very short period. Biographical and bibliographical dictionaries started to include the book in their coverage, and it became one of the objects of commentaries by many Ottoman legal scholars. Famous Ottoman biographer Ahmed Taşköprizade (d. 1560), in his book *al-Shaqā'iq al-nu'māniyya fī 'ulamā' al-dawla al-'Uthmāniyya*,[9] written in 1558, provided a short biography of al-Ḥalabī and said that he wrote, "many treatises and books and the most famous of them is a book in fiqh, which he named *Multaqā al-abḥur*."[10] As a scholar who lived at the very core of the imperial scholarly circle in Istanbul and a

7 As discussed below, some modern Western authors who wrote specifically on Islamic legal thought referred to *Multaqā* as a proof to argue that legal thought froze with its publication.

8 For the students to graduate and qualify as judges or muftis in the official Ottoman madrasa system, they needed to complete the madrasa curriculum that included the study of fiqh textbooks in gradually ascending order in complication from simple fiqh matn for beginners to more advanced ones. The *Multaqā* is a middle to advanced level fiqh text. However, students may also learn fiqh at the *Multaqā* level from other similar fiqh textbooks, such as *al-Durar, Qudūrī*, and others.

9 Ahmed Taşköprizade, *al-Shaqā'iq al-nu'māniyya fī 'ulamā' al-dawla al-'Uthmāniyya*, ed. Ahmed Subhi Furat (İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, 1985). Hereafter *Shaqā'iq*.

10 *Shaqā'iq*, 296. Translation from Arabic is mine.

contemporary of Ibrāhīm al-Ḥalabī, Taşköprizade's statement is clear evidence that the *Multaqā* gained strong reception in the empire's central cities within 40 years of its production. Another contemporary author of a biographical dictionary, Ibn al-'Imād (d. 1563), writing in Aleppo, introduced the *Multaqā* as one of al-Ḥalabī's two most well-known books and commented, "What a beautiful composition it is."[11] His statement shows that the book was also well received at the periphery of the empire. After about a hundred years, famous bibliographer Kātip Çelebī (d. 1657), in his book *Kashf al-ẓunūn*, said about the *Multaqā*, "Its fame reached to the horizons and the Hanafi scholars united on its acceptance (as an authoritative book in the field)."[12] Many others continued to mention the book as one of the most significant works of Hanafi fiqh.[13] Before the emergence of modern forms of authorship, Ottoman scholars produced more than 50 commentaries and short annotations on the *Multaqā* between 1587 and 1862.[14]

11 Raḍī al-Dīn Muḥammad Ibn al-Ḥanbalī (hereafter Ibn al-Ḥanbalī), *Durr al-ḥabab fī tārīkh a'yān al-Ḥalab*, eds. Maḥmūd Aḥmad al-Fākhūrī and Yaḥyā Zakariyyā 'Abbara (Damascus: Wizārat al-Thaqāfa), 1972, I:94. Hereafter *Durr al-ḥabab*.

12 Kātip Çelebī, *Kashf al-ẓunūn fī asamī al-Kutub wa al-Funun,* ed. Şerefettin Yaltkaya (İstanbul: Maarif Matbaası, 1943), "its authority reached the horizons and Hanafis united on accepting it as authoritative," 2:1814. Hereafter *Kashf al-ẓunūn*.

13 See, for example, Najm al-Dīn al-Ghazzī, *al-Kawākib al-sā'ira bi 'a'yān al-mi'a al-'āshira,* 3 vols., ed. Jibrā'īl Jabbūr (Beirut: American Press, 1945), I: 78; Ibn al-'Imād 'Abd al-Ḥayy al-Ḥanbalī (hereafter Ibn al-'Imād, d. 1679), *Shadharāt al-dhahab fī akhbār man dhahab,* 8 vols., eds. 'Abd al-Qādir al-Arnawūt and Maḥmūd al-Arnawūt (Beirut: Dār Ibn al-Kathīr, 1986), 4: 445; Şemseddin Sami (d. 1904) introduces al-Ḥalabī first with reference to his book, saying that he is the author of "the famous book of *Multaqā*", *Qāmūs al-a'lam*, vol. 5 (Istanbul: Mehran Matbaası, 1889), I: 568; Bursalı Mehmed Tahir (d. 1925) is another important person in bibliographical writings who mentioned the *Multaqā* multiple times in his book named *Osmanlı Müellifleri*, vol. 3 (İstanbul: Matbaa-i Amire, 1915). Bursalı includes a list of 30 commentarial authors on the *Multaqā*: see pages I:182-183. He also gives specific information on the libraries where he saw those commentaries: see pages I:29, I:38, I:131, I:234, I:239, I:256, I:259-260, I:266, I:279, I:295-96, I:306, I:323, I:325, I:334, I:336, I:343, I:353, I:359, I:390, I:400, II.9, II:24-25, II:44-45, II:56. Perhaps, the last Ottoman author who mentioned the *Multaqā* as a famous work of al-Ḥalabī is Muḥammad Rāghib al-Ṭabbākh (d. 1951), *I'lām al-nubalā' bi-tarīkh Ḥalab al-shahbā*, 7 vols. (Aleppo: Dār al-Qalam al-'Arabī, 2nd edt. 1988), V: 534-536.

14 Indeed, the *Multaqā* is still being used as one of the classic texts for teaching Hanafi fiqh. See, for one of the later editions, for example, Muḥammad b. Ibrāhīm al-Ḥalabī, *Multaqā al-abḥur,* ed. Wahbī Sulaymān Ghawajī al-Albānī (Beirut: Mu'assasat al-Risāla, 1989).

I. "Civil" Context of the *Multaqā*'s Emergence and its Disciplinary Representation in the Writings of the Ottoman Authors

The practice of writing legal textbooks developed during the first four centuries of Islam, and its most refined products started to emerge in the fourth/tenth to the sixth/twelfth centuries. Before the emergence of the *Multaqā*, there were several highly recognized and authoritative fiqh books that were already in circulation within Hanafi scholarly circles.[15] The most widely used books for teaching fiqh came to be called *mukhtaṣar,*[16] or in a different context, a selected group of them were called *al-mutūn al-mu'tabara*. This term frames the books' authoritative statuses within the legal-epistemic circles of the madhhab.[17] The production and formation of

15 In the introduction, al-Ḥalabī names four major textbooks of Hanafi fiqh as his sources in writing the book**.** These were the four most authoritative textbooks (*mutūn*) that were produced during the classical age of the Hanafi madhhab's formation. They are known by their shortened names as, in chronological order, *Mukhtaṣar al-Qudūrī* by Aḥmad b. Muḥammad al-Qudūrī (d. 1037); *al-Mukhtār li-al-fatwā* by Abū 'Abdullāh Ibn Maḥmūd al-Mawṣilī (d. 1283); *Kanz al-daqā'iq* by Abū al-Barakāt al-Nasafī (d. 1310); and *al-Wiqāya* by Burhān al-Sharī'a Maḥmūd b. 'Ubaydullāh, known as al-Maḥbūbī (d. 1312). Additionally, al-Ḥalabī also selected some of the legal issues from another two textbooks that were also produced in the classical period: *al-Hidāya* by Burhān al-Dīn al-Marghinānī (d. 1196) and *Majma' al-bahrayn wa multaqā al-nayyirayn* by Muẓaffar al-Dīn Ibn Sā'ātī (d. 1295). These books were canonized as textbooks of the Hanafi legal corpus. In addition to their legal-pedagogical use, *muftis* and *qadis* in Hanafi regions of the Islamic world also used these textbooks as a reference to formulate their own legal opinions. Al-Ḥalabī's book was added to this corpus about 150 years after its emergence. In the Hanafi literature, two views are dominant in the categorization of the most-relied-upon textbooks (*al-mutūn al-mu'tabara*) in the classical age. The first one lists these as *al-Wiqāya*, *al-Mukhtaṣar al-Qudūrī*, and *Kanz al-daqā'iq*. The second one adds a fourth book, *Majma' al-Bahrayn*. See 'Abd al-Ḥayy al-Laknawī al-Hindī's (d. 1886) *al-Nāfi' al-kabīr li-man yuṭali' al-Jāmi' al-saghīr*, printed with *al-Jāmi' al-kabīr* by Muḥammad al-Shaybānī (Beirut: 'Ālam al-Kutub, 1986), 23-26. For further detailed information about these textbooks, see Mustafa Bilge, *İlk Osmanli Medreseleri* (İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi, 1984), 48-49; Uzunçarşılı, *İlmiye Teşkilatı*, 4; Colin Imber, *Ebu's-Su'ud*, 26-27.

16 *Mukhtaṣar* refers to a fiqh text that is written as a concise handbook (legal treatises) for jurists to use as teaching and judicial references. For the history of the emergance of the mukhtaṣar literature in the Hanafi school, see Eyyüp Said Kaya, "Nevazil Literatürünün Doğuşu ve Ebu'l-Leys es-Semerkandî'nin Kitabu'n-Nevazil'i", MA Thesis, submitted to Marmara Üniversitesi Sosyal Bilimler Enstitüsü (2001); "Muhtasar," *TDVİA* (2020), 31: 61-62; Orazsahet Orazov, "Muhtasar Metinlerin Hanefi Literatürü İçindeki Yeri," *BEÜ İlahiyat Fakültesi Dergisi,* Haz. 2018, 5(1): 107-122.

17 A well-known Hanafi scholar of the early nineteenth century, Ibn 'Ābidīn (d. 1836), lists seven textbooks as "the authoritative textbooks" in the Hanafi school. He includes the *Multaqā* among them. In fact, Ibn 'Ābidīn counts eight works as reliable →

the authoritative status of a legal textbook traditionally took place in legal scholarly circles that were primarily operated outside of the sphere of state engagement. For example, the second most important Hanafi textbook produced during the early formation of the Ottoman Empire was written by a scholar who held an official position in the judiciary, Molla Hüsrev (d. 1480).[18] He explicitly stated that he wrote the book to meet the needs of the state judiciary. On the other hand, al-Ḥalabī wrote his text to help teach his students. Therefore, fiqh textbooks were not necessarily produced under the patronage of high state officials or by scholar-bureaucrats who were trained in Islamic law and held positions in the state apparatuses.[19] What makes this dynamic important in the production of fiqh books is that every mukhtaṣar text could accept or reject, favor or disfavor, and highlight or dismiss the opinions that were available among the pre-existing fiqh knowledge. For example, the *Multaqā* gives preference to certain opinions over others and makes its own distinct choices within the Hanafi school of law (*madhhab*).[20] Therefore, the legal textbooks composed within one madhhab represent the authors' opinion of the most authoritative legal norms within that madhhab. Thus, a fiqh textbook, in addition to its other functions, also draws a boundary around the various normative possibilities within the madhhab. Through the textbooks, a madhhab gives certain uniformity to legal norms, but at the same time, it allows competing legal opinions to be integrated within one frame of legal discipline.[21]

Hanafi textbooks. But one of these, the *Nuqāya*, is a summary of another text, the *Wiqāya*, by the same author. The full title of the summary is the *Mukhtaṣar al-Wiqāya* by the same author. To my knowledge, this was the first time in Ottoman Hanafi legal literature that the *Multaqā* was included among the corpus *al-mutūn al-mu'tabara* since its "publication" in the early sixteenth century. For further information, see Norman Calder, "The *'Uqud Rasm al-Mufti* of Ibn 'Abidin," *Bulletin of the School of Oriental and African Studies* 63, no. 2 (2000), p. 215-228. See also Ibn 'Ābidīn's *Sharḥ 'Uqūd rasm al-muftī*, contained in his *Rasā'il*, p. 1:10-52 (custom print), p. 36-37.

18 Molla Hüsrev produced the first of two of the most recognized Ottoman Hanafi fiqh textbooks. For his book, see Molla Hüsrev, *Durar al-ḥukkām fī sharḥ Ghurar al-aḥkām,* 2 vols. (Istanbul: Matbaa-i Mehmed Es'ad, 1299 [1881/1882]); for his life and works: Ferhat Koca, *Molla Hüsrev* (İstanbul: Diyanet Vakfı Yayınları, 2008), 61-64; Ahmet Akgündüz, "Dürerü'l-Hükkam," *TDVIA* (1994), 10:27-28; *Shaqā'iq,* 116; Franz Babinger, "Khosrew," *EI²,* 5:605-606; Ahmet Özel, *Hanefi Fıkıh Alimleri* (İstanbul: Diyanet Vakfı Yayınları, 2013), 203-204.

19 For the concept of "scholar-bureaucrat," see Atçıl, *Scholars and Sultans*.

20 For further details, see Aamir Shahzada Khan, "*Multaqa al-Abhur* of Ibrahim al-Halabi (d. 1549): A Hanafi Legal Text in Its Sixteenth-Century Ottoman Context," M.A. thesis, Central European University, Budapest, 2014 (hereafter "*Multaqa al-Abhur* of Ibrāhīm al-Ḥalabī"), 42-47.

21 On the topic of variations within the uniformity of a madhhab, see Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din Al-Qarafi*

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Disciplinary Representation of the *Multaqā*

There is a significant difference between the *Multaqā*'s representation by premodern Ottoman and Arabic writers and its representation by modern, predominately Western writers on the Ottoman Empire. When authors in the first group wrote about the *Multaqā*—whether in the context of bibliographical information, evaluations of Hanafi fiqh, or teaching in Ottoman madrasas (legal education)—they evaluated the book in terms of its place within Hanafi legal literature as one of the most significant textbooks. For them, the book's inner textual development represented the most obvious element of the text's significance. It was a stage in writing fiqh textbooks, a product of legal enterprise (fiqh), but no more than that. This observation was true for bibliographical writers and writers of commentaries on the book. All commentators on the *Multaqā* evaluated the book in the introduction (*dibāja*) to their own works and presented it as a significant text within the Hanafi literature. I call this a "disciplinary representation" of the text, and I believe it reflects the disciplinary status of the book within the tradition of producing fiqh knowledge. In the writings of the second group of authors, starting from the late eighteenth century, the representation of the book shifted from disciplinary concerns to concerns that clearly reflected the standpoint of the state and its political-legal approach. I call this a "statist representation" of the *Multaqā*, meaning a view of the *Multaqā* from the state's point of view. This approach first started within the writings of Western authors and was then incorporated into the works of later Ottoman Muslims writing on Ottoman legal experiences. During the modern era—or, more precisely, after the *Tanzimat*[22]—Muslim authors also started to present the *Multaqā* as a legal code of the empire; thus, the book was more closely identified with the notion of the state. The most recent example of these authors is Ahmed Akgündüz, who has written extensively on Ottoman law.[23]

(Leiden: Brill Academic Publishing, 1996), 80-83. Jackson says that the multiplicity of opinions within the madhhab is "overridden by the ongoing opinion of the school."

22 *Tanzimat* refers to a period of reforms encouraging the Ottoman state and society's modernization between 1839 and 1876. Due to its significant impact on the Ottoman state and society and for some westernizing elements within its various programs, the reforms are, as a whole, controversially interpreted among historians and social thinkers. As an Ottoman historical concept, the era is dubbed "the Tanzimat Era." See, for further information, R. H. Davidson, "Tanzimat," *EI*^{2}; Coşkun Çakır, "Tanzimat," in Gabor Agoston and Bruce Masters, *Encyclopedia of the Ottoman Empire* (New York, Facts on File 2009).

23 For further discussion of the issue of modern authors' presenting the *Multaqā* as a code of the state and supporting their view with Ottoman historical development, see the usage of the "Yildiz-14" document as evidence for their claim: Kopuz, "Reproduction of the Ottoman Legal Knowledge," 164-166.

Two of the most widely known encyclopedic biographers of the mid-sixteenth century Ottoman era, Taşköprizade (d. 1560) and Ibn al-Ḥanbalī (d. 1563), described the *Multaqā* only in reference to the discipline of fiqh (Islamic law). Within the context of the introduction of a biography of al-Ḥalabī, Taşköprizade listed al-Ḥalabī's books and mentioned the *Multaqā*. He wrote, "the best-known work of his [al-Ḥalabī] is a book in fiqh that he named *Multaqā al-abḥur*." When he said "the best known," he clearly meant among the scholars of fiqh. Although the introduction of the book by Taşköprizade is very brief (he spends less than one line describing it), he informed us that the book, written in 1517, became famous by the time Taşköprizade completed his biographical work around the 1550s. Taşköprizade did not mention anything related to the use of the *Multaqā* in relation to the state.[24] Similarly, when Ibn al-Ḥanbalī mentioned the *Multaqā*, he noted the beauty of its composition rather than its use by state officials in their judicial capacity.

Besides its significance within fiqh, one would expect these scholars to mention the *Multaqā* in terms of its usage by the official judges or muftis of the empire. For example, there are several good reasons to expect Taşköprizade—a scholar whose job profile placed him at the very center of the upper echelon ulama circle in Istanbul—to have said something about the state's judicial use of the book. First, there was already an officially established text of the *Durar* in circulation that had been written to help the empire's *qadi*s and muftis. The *Durar* was officially presented to Mehmet II. Second, there was an intense "kanunization" occurring in the state's judiciary, starting from the time of Mehmet II to the time of Suleiman I. Third, from the perspective of relations between fiqh and sultanic *kanunname*s, it was during this time that a historical turn in the Ottoman legal system took place. Abū Su'ūd (d. 1574), the chief mufti of the empire, carried out the major task of synchronizing the *kanun* with Hanafi fiqh.[25] Within such an atmosphere of relatively intense kanun activities, one would expect a famed book like the *Multaqā* to be described in terms of its usage within the apparatuses of the state. After all, if the book was well known amongst fiqh scholars, as Taşköprizade said it was, these were the very same people from among whom the judiciary positions were filled—qadis and muftis of the state were selected and appointed from among the madrasa graduates. It would, therefore, only seem reasonable that they would use the *Multaqā* in formulating their legal opinions.

24 *Shaqā'iq*, 296.

25 See for details: Imber, *Ebu's-Su'ud*, 99-272.

Kātip Çelebī (d. 1657), another well-known biographical author who wrote about a hundred years after Taşköprizade, described the *Multaqā* as "one of the most famous books of Hanafi fiqh."[26] He did not reference the status of the book within the apparatuses of the state. Çelebī stated that "the book's fame reached to the horizons" and that the "Hanafi legal scholars united upon the importance of the book."[27] Unlike Taşköprizade, Çelebī offered an analysis of why the *Multaqā* became so widely accepted. He gave three reasons: first, the author of the book, al-Ḥalabī, gathered "all the major issues of the previous books" of Hanafi fiqh in one textbook. Al-Ḥalabī did his best, says Çelebī, "not to leave out any legal issues that were mentioned in the previously accepted four Hanafi legal textbooks."[28] The second reason he provided was that al-Ḥalabī used "a very easy style" of writing.[29] As a third reason for the *Multaqā*'s fame, Çelebī counted another element in his qualification of the book. He evaluated the book within the context of the debate over new *ijtihād* within the production of the knowledge of fiqh.[30] Contrary to those who claimed that there was no new *ijtihād* allowed in Ottoman legal thought, Çelebī argued that al-Ḥalabī "made his own *ijtihād* in choosing a legal opinion among the various ones as the most correct and the strongest" legal opinion within the parameters of Hanafi legal thought. In selecting the opinions of earlier scholars to include in his textbook, Çelebī said that al-Ḥalabī was one of the most successful in "choosing in his book the most preferred opinions" (*arjaḥ*) of the early Hanafi authorities.[31]

Çelebī identified these as the reasons that the Ottoman Hanafi scholars mostly preferred this book over the other textbooks. I argue that, as is evident here, within the Ottoman discourse of fiqh, the Ottoman authors in the mid-seventeenth century framed and valued the *Multaqā* for its disciplinary status within the religio-legal-intellectual and educational context rather than for its usage by the state apparatuses.

As mentioned above, the disciplinary status of the *Multaqā* was represented in commentaries. The book began circulating among Hanafi jurists relatively shortly after its completion. It earned significant importance

26 *Kashf al-ẓunūn*, 2: 1814-1815; Kātip Çelebī, *Mizān al-ḥaq fi ikhtiyār al-aḥaqq* (tr. G. L. Lewis, *The Balance of the Truth*), (London: George Allen and Unwin, 1957), 141.

27 *Kashf al-ẓunūn*, 2: 1814.

28 *Kashf al-ẓunūn*, 2: 1814.

29 *Kashf al-ẓunūn*, 2: 1814.

30 For further reading on the issue of *ijtihād* and *taqlīd* and a good sampling of the *Multaqā* in its balancing between these two legal forces, see Khan, "Multaqa al-Abḥur of Ibrāhīm al-Ḥalabī", 26-30, 42-47.

31 *Kashf al-ẓunūn*, 2: 1814.

within the scholarly circles in the empire's center and periphery, which is visible by its numerous commentaries. In Istanbul, the jurist ʿAlī al-Ḥalabī, who was a student of al-Ḥalabī, wrote the first commentary on the book before his death in 1565.[32] Another scholar—this time a scholar of fiqh at the periphery of the empire—the imam and professor (*mudarris*) of the Umayyad Mosque in Damascus, Najm al-Dīn Muḥammad b. Muḥammad b. Rajab al-Bahnasī (d. 1578), wrote a commentary on the *Multaqā* in the 1570s.[33] During the same period, another author named Nūr al-Dīn Maḥmūd b. Barakāt al-Bāqānī (d. 1594) wrote a commentary on it in 1587;[34] He was also a scholar in the Damascus region.[35] These examples are enough to indicate that the book received a strong reception among scholars in both the center and periphery of the empire in a very short period.[36] A textbook (*matn*) that is the focus of a commentary is almost akin to having a modern textbook widely used in universities. These commentary authors each wrote about the *Multaqā* in terms of its significance within the discipline of fiqh in the introductions of their books. For them, the book was important for its role and status in teaching and learning the knowledge of fiqh in the Ottoman Empire and beyond.

Although the authors mentioned here did not describe the *Multaqā* in terms of its status and use within the Ottoman state apparatus, I argue that the state played a role in the *Multaqā* gaining widespread recognition

32 *Kashf al-ẓunūn*, 2: 1814; Şükrü Selim Has, "A Study of Ibrahim al-Halabi with Special Reference to the Multaqa," PhD diss., University of Edinburgh, 1981 (hereafter "A Study of Ibrāhīm al-Ḥalabī"), 269. No MS copy of his book has survived; however, most of the sources on the *Multaqā* reference his book of commentary on the *Multaqā*.

33 Ibn al-ʿImād, *Shadharāt al-dhahab*, 9: 410; *Kashf al-ẓunūn*, 2: 1814; Has, "A Study of Ibrāhīm al-Ḥalabī," 269.

34 Nūr al-Dīn Maḥmūd b. Barakāt al-Bāqānī (d. 1594) started to write the first surviving commentary on the *Multaqā* in 1582 and finished it in 1587. See Nūr al-Dīn Maḥmūd b. Barakāt al-Bāqānī, *Majr al-anhur ʿalā Multaqā al-abḥur*, Süleymaniye Library, MS Giresun Yazmaları 29.

35 For the role that Bahnasī and later Bāqānī played in introducing the *Multaqā* among Damascene scholarly circles, see Kopuz, "Reproduction of the Ottoman Legal Knowledge," p. 228-229; see also Guy Burak, *The Second Formation of Islamic Law: The Hanafi School in the Early Modern Ottoman Empire* (Cambridge: Cambridge University Press, 2015), 122-125, specifically ft. 1 and 3.

36 Although the book's recognition among Hanafi scholars developed in a short time, its acceptance and integration into the curriculum of the formal educational system of the empire seems to have occurred slowly. Has concludes that the process of *Multaqā*'s acceptance into the madrasa curriculum as "a basic text-book of Hanafi Law" was "necessarily a slow process." See Has, "A Study of Ibrāhīm al-Ḥalabī," 291; "The Use of Multaqa'l-Abhur in the Ottoman Madrasas and in Legal Scholarship." *The Journal of Ottoman Studies* VII-VIII (1988): 393-418 (395).

and authoritative status within the Ottoman legal culture. That religio-legal scholars of Hanafi law were employed in large numbers by the state is an important historical dynamic that needs to be considered here. It is highly likely that the process of legal integration of the vast areas of newly conquered Arab lands into the empire, coupled with the judicial "reforms" of the mid-sixteenth century, served to open a wide "market" for the circulation of the book in the hands of scholars, students, qadis, and muftis of the empire. The Ottoman authors who addressed the *Multaqā* within the context of its disciplinary status did not speak about the historical context of the process whereby the book gained its significance.

Furthermore, I would describe the *Multaqā's* success in gaining acceptance among the upper-echelon Ottoman scholars and judiciary as a bottom-up process and a landmark success in legal-scholarly achievement. As mentioned above, al-Ḥalabī was not an official professor (mudarris) within the madrasa system. The book emerged among the students and scholarly environment around al-Ḥalabī. More importantly, it was still not a state-sanctioned textbook very early in its prominence.[37] Therefore, it was the product of informal, "civic" religio-intellectual endeavors. However, as will be shown below, the view of the *Multaqā* and its usefulness to the apparatuses of the state—in other words, its identification with the state—started to emerge at the end of the eighteenth century. This, however, did not prevent the disciplinary representation by authors writing about the *Multaqā* when it had primarily been re-framed within a statist discourse.

Many Ottoman writers of the modern period continued to write about the *Multaqā*'s place within the discipline of fiqh. For example, as mentioned above, the well-known Ottoman author Şemseddin Sami (d. 1904) wrote a six-volume influential encyclopedia that included a special entry on the *Multaqā*. He described the book, noting that it "is studied as a textbook throughout the Ottoman Empire and is widely circulated in the hands of the students."[38] Sami's representation of the book as a fiqh textbook is important for my argument here. First, Sami was aware of the changes in the modern conceptual world. He was aware of modern Western thought, including modern legal discourses. Furthermore, by his time of writing, the Ottoman state had experienced many legal changes as various Western continental codes of the law were introduced into the Ottoman legal system amid the pressure of integrating into a modern

37 For al-Ḥalabī's job profile and his scholarly circles, see Kopuz, "Reproduction of the Ottoman Legal Knowledge" ch. 2 and 3.

38 *Qāmūs al-aʿlam*, 1: 568.

state system. These changes took place in about the second half of the nineteenth century. At the same time, due to internal pressure for an authentic Islamic-based state law, the conservative-framed-modern Ottoman elite began an official codification of the Islamic law, the *Majalla*, as an alternative to legal implantation from the West.[39] Sami himself described the famous *Majalla* as the first "authentic" codification of the "native" law into a modern form. However, when he introduced the *Multaqā*, he only described it as a fiqh book rather than describing it in relation to the state. This shows that the *Multaqā* did not represent a code of the state for most of the Ottoman authors. The same is true among the authors who wrote about the book outside the Ottoman geographical world. I will discuss this further below, but it suffices to note here that a contemporary Indian-origin Muslim writer, Cheragh Ali, wrote about the status of the *Multaqā* within Muslim communities globally and described it as a *fiqh textbook* in his argument against Western authors describing it as a "sacred code of the state."[40]

II. Statist Representation of the *Multaqā*: The Gradual Development of the Notion of a Fiqh Textbook as a "Code of the Empire" in Western Writings

Like the Ottoman writers, many European authors also spoke about the *Multaqā* as a significant legal textbook in the Ottoman Empire.[41] However, Western writers developed a view of the text that differed significantly from its portrayal in Ottoman writings. The *Multaqā* gradually came to be seen as a "fixed code" of the state within their discourse about the book.[42]

39 The *Majalla* marked the first Ottoman codification of an authentic civil law formulated to reinvent fiqh norms in modern form, as they are selected and taken out from the larger Islamic Hanafi fiqh compendium. Thus, it was presented as an alternative to the modern continental Western codes of law.

40 See Moulavi Cheragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire and Other Mohammadan States* (Bombay: Education Society Press, Byculla, 1883), 95. Ali quotes from James Lewis Farley, who cites *Multaqā* as a frozen legal code of the empire. See James Lewis Farley, *Turks and Christians: A Solution of the Eastern Question* (London: Simpkin, Marshall & Co. Publishers, 1876), 24.

41 Has, in his article, speaks about European authors' treatment of the book and quotes from Western writers, but he does not discuss how the *Multaqā* was represented in these writings. See Has, "The Use of Multaqa'l-Abhur," 393-418; "A Study of Ibrāhīm al-Ḥalabī," 292. In his MA thesis on the *Multaqā*, Khan follows Has; he, too, does not discuss the issue of Western representation of the *Multaqā*. See Khan, "Multaqā al-Abḥur of Ibrāhīm al-Ḥalabī," 52.

42 As discussed above, the view of Ottoman and other Muslim jurists that sees the *Multaqā* as one of several authoritative fiqh textbooks in Hanafi law is different from seeing the single text of the *Multaqā* as a fixed code of the empire.

This article argues, however, that the notion of the *Multaqā* as a code of the state displaces the book from the discipline of fiqh and presents it within the frame of the state. This shift in view began during the transition from the premodern to the modern state, when the structure and the role of the state within the social body significantly changed in Europe and the Ottoman world.[43] In tandem with this change in the state, authors of the late eighteenth and nineteenth centuries developed a view of the *Multaqā* in terms of its relation to the state.

As discussed below, the representation of the *Multaqā* as a "fixed code" of the state paved the way for some modern Western authors to argue that Islamic legal thought froze after about the tenth or eleventh centuries. This argument was most commonly expressed concerning the debate over the closure of the gate of *ijtihād*.[44] Thus, by the mid-nineteenth century—mainly in Western discourses that produced certain narratives about the Ottoman state—the *Multaqā* was seen as a "code of the state." Within the context of developing narratives on Ottoman sharia legal thought, the *Multaqā* was understood to represent the ultimate example of the frozen and moribund state of legal thought. Furthermore, this new approach emerged with the book's introduction to a Western rather than Ottoman audience. In other words, this idea was produced for consumption by European audiences during the transition to modern formations.

The *Multaqā* in the English Language

As mentioned above, the full title of the book is *Multaqā al-abhur*. Western authors who wrote about the book usually referred to it as *Multaqā*, a shortened version of its title.[45] Some of these authors translated the book's full title literally as *The Confluence of the Seas*. We see, for example, that the earliest and most extensive writer on Ottoman literati, Giambatista

43 For further discussion of the change in the nature of the state in Europe the references, see footnote seven, and for an analysis of Ottoman change, see Rifa'at Ali Abou-El-Haj, *Formation of the Modern State: The Ottoman Empire, Sixteenth to Eighteenth Century* (2nd ed. Syracuse: New York, Syracuse University Press, 2005); "Ottoman Vizier and Paşa Households, 1683-1703: A Preliminary Report." *Journal of the American Oriental Society,* 94 (1974): 438-447.

44 See, for example, Jean-Henri-Abdolonyme Ubicini (d. 1884), *Letters on Turkey: An Account of the Religious, Political, Social and Commercial Condition of the Ottoman Empire*, trans. from French by Lady Easthope (London: John Murray, Albemarle Street, 1856), 137. I discuss Ubicini's view further below, but it suffices to quote here his saying that, "all these [previous legal] opinions having been determined and fixed in the code *Multequa* [sic.]."

45 As will be seen below, the spelling of the Arabic name *Multaqā* varies from author to author. The most common spelling is *Multaqā,* which I used in this article.

Toderini (d. 1799), mentioned the name of the *Multaqā* in a shortened version in Arabic as *Multaqa* and added the translation of its full title as the "confluence of the sea" in Italian.[46] His book was printed in 1787 in Italy and was translated into French with the same literal title for the *Multaqā*. I discuss this book further below, but it suffices to say that this text significantly affected Western discourse on the *Multaqā*. As late as 1913, Albert Howe Lybyer (d. 1949) used a literal translation of the title,[47] which was metaphorical in Arabic. In naming the book, the author of the *Multaqā*, al-Ḥalabī, indicated that he had collected all the major scholarly legal opinions of Hanafi law in one concise book. Al-Ḥalabī explained this at the very beginning of the *Multaqā*, writing, "since all the above-mentioned books [the four previously written main textbooks of Hanafi fiqh] are gathered in this book, I, therefore, called it '*Multaqā al-abḥur*' to have the title correspond to the content."[48] He thus explained his choice of title as reflecting the fact that all the previous scholars' opinions were gathered in this book. He names these earlier scholars as "seas" or "ocean" to reflect their greatness. After a discussion with the late professor El-Haj, in this paper, I prefer to translate the full title of *Multaqā al-abḥur* as "Meeting Place of the Jurists."[49]

46 Toderini writes, "… intitolato Moltaki Alabhar, ossia concorso de'mari" ("entitled Moltaka Abhor, as confluence of the seas"), see Giambatista Toderini (also written as Gian Battista), *Letteratura turchesca,* vol. 3 (Venezia, 1787), I:46; and in the French translation of the book, it says, "… nomme Moltaki Alabhar, ou la reunion des mers," *De la Litterature des turcs* tr. into French by A. de Cournand, 2 vol. (Paris: Chez Poincot, Libraire, 1789), I:41.

47 See for his use of the "confluence of the seas," Albert Howe Lybyer, *The Government of the Ottoman Empire in the Time of Suleiman the Magnificent* (Cambridge: Harvard University Press, 1913), 153. In his dissertation, Has himself used the translation of the *Multaqā's* full title as *The Confluence of the Seas,* see Has, "A Study of Ibrāhīm al-Ḥalabī," 212 and 261. In another part of his dissertation, Has says: "[The] author says: 'The book entitled Multaqa'l-Abhur (the confluence of the seas) is an overflowing sea, and a rain-carrying cloud.'" See Has, "A Study of Ibrāhīm al-Ḥalabī;" "A Study of Ibrāhīm al-Ḥalabī," 242. In his book written in the nineteenth century, Larpent uses the phrase "the junction of the two seas" in his title translation, see George Larpent, *Turkey; Its History and Progress,* further the long title of the book contains the following details: *From the Journals and Correspondence of Sir James Porter, fifteen years Ambassador at Constantinople; Continued to the Present Time with A Memoir of Sir James Porter, by His Grandson Sir George Larpent*, 2 vols. (London: Hurst and Blackett Publishers, 1854), III-VI. The book is listed in today's library catalogs under the short title, *Turkey: Its History and Progress*.

48 *Multaqā*, 10. Translation from Arabic is mine.

49 I would like to thank to Rifa'at Ebu-El-Haj for bringing to my attention this possibly more representative translation of the title than the literal translation.

The *Multaqā* as a *Book of Fiqh* in the Writings of Western Authors

The earliest author I found who mentioned the *Multaqā*[50] was Sir Paul Ricaut (1629-1700), who spoke about it in his book on the Ottoman state, titled *The History of the Present State of the Ottoman Empire.* Ricaut published his book for an English audience, with the first edition printed in London in 1665.[51] He described the general characteristics of the Ottoman government, society, education, religion, and Sufi orders. In the chapter on the Ottoman learning activities in the palace,[52] Ricaut mentioned the *Multaqā* among the texts he claimed were studied for learning the faith. He wrote, "At certain houses they reade [sic.] books that treat of the matters of their Faith, and render them out of *Arabic* into *Turkish*, and these books are *Schurut, Salat, Mukad, Multeka, Hidaie, etc.* which they descant upon in an expository manner."[53] Ricaut's representation is important because his book was published three times in the 20 years between 1665 and 1686. The third edition of his book was printed in 1686. Furthermore, he was viewed as an authority on the Ottoman world. He lived in the Ottoman Empire and had extensive experience with the Ottoman state and society. In her recent study on Ricaut, Sonia Anderson presents him as "the leading authority of his day on the Ottoman empire."[54] Thus, it is safe to say that his book bears a significant influence in shaping contemporary Western readers' views of the Ottoman Empire. Ricaut's

50 Western writings related to the *Multaqā* may possibly date further back in different genres of writings. However, in my own study of Western travelers' accounts of the Ottoman Empire, I could not find any earlier reference to the *Multaqā*.

51 Sir Paul Ricaut (1629-1700), *The History of the Present State of the Ottoman Empire*, 3rd ed. (London: Charles Brome, 1686). Here, I am using a copy of the third edition; the first edition was printed in 1665. On the title page of the third edition, the following information is printed as a subtitle: "*containing the Maxims of the Turkish Polity*, the most Material Points of the *Mohametan* Religion, their *Sects* and *Heresies*, their *Convents* and *Religious Votaries*. Their Military Discipline, with Exact Computation of their Forces both by Sea and Land. *Illustrated with diverse Pieces of Sculpture representing the variety of Habits amongst the* Turks." The author's last name is variously spelled as Rycaut, Ricant, and Rycant: see the Oxford Dictionary of National Biography. In this edition, his full name is printed as "Sir Paul Ricaut." For further information on Ricaut's biography and his residence and official positions in the Ottoman Empire, see Sonia P. Anderson, *An English Consul in Turkey: Paul Rycaut at Smyrna, 1667-1678* (New York: Clarendon Press, 1989). Neither Has nor Khan mentions the work of Ricaut in their studies. Ricaut published his book almost a hundred years before Toderini's book, which was first printed in 1787 in Venzia.

52 Ricaut, *History of The Present State*, 53-62.

53 Ricaut, *History of The Present State*, 58.

54 Anderson, *English Consul*, 89.

presentation of the *Multaqā* seems to have affected a wide readership. He devoted a large section of his book to the relation between the law and state/sultan.[55] He discussed the status of sharia law, which is fiqh, and the relation between the authority of the sharia and that of the sultan.[56] He also analyzed the nature of the sultan's kanun. In his presentation, he did not take *Multaqā* out of its juridical context and did not refer to the book as a fixed law of the country.[57]

In his recent study on a book with the title of *Kevakibī Seb'a Risalesi*,[58] Nasuhi Unal Karaaslan shows that the 1741 book translated the topics in the *Multaqā* into French to present "the science" of fiqh to a French audience. [59] The book detailed "the sciences" that were taught in the Ot-

55 According to Ricaut, the Ottomans did not have a fixed and settled law, as did the British and the Roman Empire. He stated that the sultan's arbitrary will was above the law and the mufti's fatwas. Ricaut wrote, "It is an ordinary saying among the *Turkish Cadees* [kadis] and Lawyers, that the *Grand Signior* [sic.] *is above the Law*; that is, whatsoever Law is written, is controllable, and may be contradicted by him: his mouth is the Law it self, [sic.] and the power of an infallible interpretation is in him; and though the *Mufti* is many times, for custom, formality and satisfaction of the people consulted with, yet when his sentences have not been agreeable to the designs intended, I have known him in an instant thrown from his Office to make room for another Oracle better prepared for the purpose of his Master." Italics added by the author. See page 9.

56 Ricaut, *History of The Present State*, 11. Ricaut said, "[T]he Grand Seignior, swears and promises solemnly to maintain the Musleman Faith, and Laws of the Prophet *Mohamet*. and thus Grand Signior [sic.] retains and obliges himself to govern within the compass of Laws, but they give him so large a latitude, that he can no more be said to be bound or limited.... For though he be obliged to the execution of the *Mohometan Law*, yet that *Law* calls the Emperour the Mouth and interpreter of the it, [sic.] and endues him with power to alter and annul the most settled and fixed Rules, at least to wave and dispense with them when they are an obstacle in his Government, and contradict (as we said before) any great design of the Empire" (italics are the author's). See page 11. This was the time when ideas of the "absolutist" sultan were quite widely among Western readerships. Ricaut's discourse included a conscious conception of law as a "fixed and settled" code of the state, and as such, he claimed that it existed in Britain but not in the Ottoman state. See Ricaut, *History of The Present State*, 5, 8-13, 55, 124-126.

57 As clear in the above quote, Ricaut refers to sharia law in a larger context. It is important to note for my argument here that while Ricaut frequently referred to the concept of law as a force to limit the power of the state's authority in his book, he did not mention the *Multaqā*, or any other fiqh textbook, as the "law" or "code" of the country, neither in the context of Ottoman sharia nor of Ottoman kanun law.

58 Nasuhi Unal Karaaslan, *XVII Asrın Ortalarına Kadar Türkiye'de İlim ve İlmiyeye Dair Bir Eser: Kevakib-i Seba Risalesi* (Ankara: Türk Tarih Kurumu, 2015).

59 Karaaslan, *Kevakib*, 4. Mustafa Efendi ordered his son-in-law and treasurer, Ebu Bekir Efendi, to write the book at the request of the French ambassador. Ebu Bekir, in turn, asked his teacher to write the book, but the name of the actual author is not

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toman Empire upon an official request by French authorities in Istanbul. Nowhere in the book is the *Multaqā* mentioned. Nevertheless, since the book translated all the topics of the *Multaqā* into French, it is highly likely that this book represented the first topical translation of the *Multaqā* into French before d'Ohsson's *Tableau*, which is discussed below. Notably, the French translation of the book referred to the discipline of fiqh as "a science of law that includes rules and practices."[60] The translator did not use the concept of a "code" of law in relation to the state.

Before the *Multaqā*'s first mention as the Ottoman code of the law by a Western author, Sir James Porter (d. 1786)[61] wrote another famous book on the Ottoman Empire, titled, *Observations on the Religion, Law, Government, and Manners of the Turks*[62] (hereafter mentioned as *Observation*). The book was printed in 1768, 100 years after Ricaut's book. Like Ricaut, Porter also addressed the relation between the sultan/state and law in the Ottoman Empire. Porter took a counterposition to Ricaut and argued that the law of fiqh limited the authority of the Ottoman sultan. His main argument was that the Ottoman state and society were run in accordance with the law of the land.

Like his predecessor Ricaut, Porter also worked as a British diplomat in the Ottoman Empire. He lived in Istanbul between 1746 and 1762 as the British ambassador.[63] His discourse on the Ottoman Empire and the law was likely influential in shaping the image of the Ottoman state and society within British intellectual circles in the mid-eighteenth century. Porter's discourse centered on the idea that the law of sharia/fiqh ran the Ottomans state. Although his book presented fiqh as the law of the land, superior to the sultan's authority,[64] Porter did not specifically mention the *Multaqā*. In

mentioned in the book. The author said that he was asked by his student Ebu Bekir Efendi, but he did not include his own name. However, in the preface to the book, the author wrote about the reason why the request for the book came from the state of France, so the author was aware that he was writing the book for a French audience. See *Kevakib*, 3-4. Since he was a teacher of Ebu Bekir Efendi, he was probably from among the ulama class in the empire.

60 The French translation says, "La science de la loi pour les règles et pratiques."

61 The Dictionary of National Biography and other sources give his year of death as 1786. However, the *Oxford Dictionary of National Biographies* gives the year of death as 1776.

62 Sir James Porter, *Observations on the Religion, Law, Government, and Manners of the Turks*, 2 vols. (1st edtn. printed for P. Wilson, and others, Dublin, 1768). The copy I am using here was printed as two volumes, printed for J. Noursy, Bookseller for His Majesty, 1768.

63 See the long title and the preface: Larpent, *Turkey,* III-VI.

64 See Porter, *Observation*, 1:54, 84, 104. Porter said, on page 104: "[The] Sultan think himself bound by laws, … he applies to the *mufti* for his fetfa [sic.], his decree, his →

his narrative describing the early development of fiqh law to explain the Ottoman legal system, Porter wrote about the earliest jurists, such as Abū Ḥanīfa and others, describing them as "law digesters." He compared the works of the earliest Islamic jurists to the jurists of early modern Europe, noting, "[T]hey have provided codes of civil law, equal and similar to the code, pandect, or digest, as clear and copious as Cujas and Domats."[65] In

decision, or function of law." Again, on pages 1:110-111, Porter argued the superiority of law in the sultan's deposition, stating: "[S]ome distinguished man of law [mufti] should enter the Seraglio, or tent, and even declare the reasons of the deposition to the very Sultan; announcing to him why by law he is unworthy and incapable of reigning." On page 2:1, Porter compared the supremacy of law with the sultan's absolute power, and he saw the former as being more powerfully felt than the latter. On page 2:1 he said, "The monarch's despotism is not the greatest evil in Turkey: his subjects would perhaps bear that without much murmuring, or great distress. The radical destruction of all security lies in the iniquitous administration of their laws, which are an impending sword in the hand of corruption, ever ready to cut their lives and properties." Continuing with the same argument, Porter said, "He [the sultan] declares he will rule according to law, justice and truth" (2:15). In the same pages, while showing how the law was being practiced, Porter told a story where the judge of Galata spoke against the defendants in support of his verdict in favor of the plaintiff: "when the parties appeared, and the witnesses were examined, Moulah [the judge of Galata] reflected a while, took down his book, and gravely opening it, told them 'the book declared, that the master should pay the true value of those very good.'" See pages 2: 16-18. There are many similar passages in the book which show that Porter's main aim in was to discredit the image of Ottomans being under "Turkish Tyranny" or the despotism of an "Absolute Monarch"; rather, he is arguing about the existence of law. It is beyond the scope of this article to study in detail these competing images of the Ottomans in the West.

65 Porter, *Observation*, 1:51. The same passage written in *Observation* is also repeated in *Turkey*, but with editing changes at the end of the sentence quoted above. The specific reference to the well-known European jurists of the sixteenth century, "Cujas and Domats," is changed to "copious as are to be found in the legislature of the western countries." See Porter and Larpent, *Turkey*,1:243. The full passage that appears in both *Observation* and *Turkey* is as follows: "Law digesters arose, who, finding the doctrines of the Koran insufficient for the great end of Government, viz: the preservation of order and the well-being of civil society… For under pretence of compiling commentaries, as a simple extension of the angel's or the prophet's ideas, but still keeping to the very language of the Koran, they have provided volumes of civil law, equal and similar to the codes, pandicts, or digest, with interpretations as clear and copious as are to be found in the legislature of the western countries… Abū Ḥanīfa is one of the first and chief of those who have thus commentated on the Koran, his books, and those of his disciples, are the rule of law under the Turkish government in Europe and Asia." *Turkey*, 1:24. It is interesting that in Porter's first edition, the names of the most influential European Jurists, Cujas and Domats, are mentioned. These two names are among the most influential in the development of the Napoleonic Code in continental Europe. And these two names disappear in the second edition of Porter's writings, which was published after the Napoleonic Code had already been promulgated in Europe and the idea of law as a code of the state

fact, Porter even said, in general terms, that the books of fiqh were the rule of law in the Ottoman Empire. He said Abū Ḥanīfa's "books, and those of his disciples, are the rule of law under the Turkish government in Europe and Asia."[66] Nonetheless, he did not name any title of a specific fiqh book in *Observation*. "*Multaqā*," as a code of law, appears only in a later edition of his book, one printed in 1854 by his grandson George Larpent.

Larpent added a new volume to Porter's book and reprinted it as a new book on the Ottoman Empire. He published the first volume in its original form but added new topics in the second volume gathered from both his and Porter's writings. From his newly written material, Larpent added new topics on the progress and changes that had taken place in the Ottoman Empire since Porter's death.[67] The book was printed under a long title; a shortened version of it, as it appears in today's libraries, is *Turkey: Its History and Progress*. In this second version of the book, Larpent wrote about the *Multaqā* and presented it precisely as a code of law for the empire.[68] In fact, the development of Larpent's edition of the book reflects

had become widespread in European countries. Hence, in *Turkey*, the same paragraph of Porter appears with more descriptive terms of the European development of the code of law as "legislature of the western countries."

66 At the time Porter wrote his book, one of the competing images of the Ottomans in the West was framed within the idea of so-called "Turkish despotism," a sultan with absolute authority without the limits of the law. Although Porter wrote about corruption and bribery within the community of Ottoman judges, he emphasized the prominence of the rule of law in the empire and said that the law was above the sultan's authority. As is known, the term "Turkish Despotism" was closely associated with the writings of Montesquieu (1689-1755). In fact, Porter wrote against the background of Montesquieu's discourse and mentioned at the very beginning of his book that he sees Montesquieu's idea of Turkish Despotism and lawlessness as erroneous and wrong. Porter wrote: "The ingenious president Montesquieu, led by precarious authorities, has excluded all right to the possession of private property; all right to successions; all inheritances in families, or to females and wives, and, indeed, all civil law from among the Turks. In short, he seems to think, that the Grand Seignor's despotism swallows up the whole code of right in that empire. When I see the excellent reasoning, and the many judicious consequences deduced from such erroneous principles, by so acute and penetrating a genius; I cannot help thinking it a serious instance, how subject we are to error, and how fallacious the most plausible arguments may sometimes prove," *Observation*, 1:53. For the debate over Turkish Despotism in European writings, see Thomas Kaiser, "The Evil Empire? The Debate on Turkish Despotism in Eighteenth-Century French Political Culture" in *Early Modern Europe: Issues and Interpretations*, ed. James B. Collins and Karen I. Taylor (Malden: Blackwell Publishing, 2006), 69-82.

67 Larpent said in the preface that Porter's correspondence formed the basis of this book. See Larpent, *Turkey*, III.

68 Neither Has nor Khan includes this in their studies. They also do not include Larpent's mention of the *Multaqā* in *Turkey*.

the change in conceptualizing the *Multaqā* as a code of law in the writings of Western authors. Between the two editions of the book, the concept of the *Multaqā* as a code of the empire developed in the Western authors' writings, and Larpent used the new conceptualization in his edition of Porter's book.

While a new conceptualization of the *Multaqā* as a state legal code started to emerge at the turn of the nineteenth century, Western historiography on the Ottoman Empire continued to present the *Multaqā* as a textbook of fiqh. For example, the well-known European historian of the same period, Joseph von Hammer (d. 1856), wrote about the *Multaqā* and quoted from it extensively in his book on Ottoman law and administration.[69] Hammer writes about the *Multaqā* as one among other fiqh textbooks, though "the main Ottoman legal texts."[70] However, he is the first Western author who has mistakenly suggested that "al-Ḥalabī was probably asked by Suleiman I to compile such a book."[71] Looking at the historical

69 Joseph von Hammer, *Des Osmanischen Reichs Staatsverfassung und Staatsverwaltung* (Vienna, 1815), 10-11. The book is about the state, as mentioned in its title: *The Ottoman Empire, State Constitution and State Administration.* Lybyer described Hammer's book, noting that the book's first volume "is very largely a collection of documents, such as *Kanuns*, *fetvas*, and extracts from the *Multeka*." See Lybyer, *The Government*, 321.

70 In his book, Hammer provided extensive information on Ottoman law and mistakenly concluded that the Sultan had ordered *Multaqā*. However, he was careful not to represent the *Multaqā* as a code of the state. He recognized that there were several other textbooks, equally important as *Multaqā*, that Ottoman sharia law relied on. In fact, Hammer warned his readers that d'Ohsson's exclusive reliance on *Multaqā* in representing Ottoman sharia law might mislead people to think that the Ottoman state only relied on the *Multaqā*. Hammer says: "Mouradgea d'Ohsson gives the names of the most distinguished imams of these seven classes, without getting involved in a closer note of their works, by restricting himself solely to the lightest and most practicable of them, to the Multeka of Sheikh Ibrahim of Halebi, who compiled his corpus of Islamic legislation under Sultan Suleiman, which is most used today, from the best sources. This exclusivity might almost mislead the readers of the Tableau général de l'Empire Othoman into thinking that the Multeka was the exclusive corpus juris islamici in the Ottoman Empire, with prejudice to all previous works of the kind, which is by no means the case; while there are even some special pulpits, the professors of which are bound to read nothing but individual earlier works of this kind, such as the Hedaye and the Vikaye." See Hammer, *Des Osmanischen,* 5. I would add here that, compared to the other authors mentioned here as representers of the *Multaqā*, Hammer is the most nuanced in his discourse on the *Multaqā* and its place within the sharia law and the place of the sharia within the larger Ottoman legal system. See Hammer, *Des Osmanischen,*1-171.

71 Hammer, *Des Osmanischen,* 10. His idea of Suleiman I's commissioning the book continued to circulate among later authors, such as Lybyer, who viewed the *Multaqā* from the position of the state.

context within which Hammer wrote his book, the widespread practice of approaching "law" from the state point of view around the turn of the nineteenth century may have led him to think the *Multaqā* was a product of the state's commission.[72] The authors who continued to repeat the same mistake in thinking that Suleyman I had commissioned the book are discussed below.

The Emergence of the *Multaqā* as a "Code of Law" in the Writings of Western Authors

About 20 years after Porter's first publication of *Observation* in 1768, there emerged a range of authors who started to write in detail about the *Multaqā* and its contents as a "code of law" rather than just a fiqh code—one with close association to the state of the Ottoman Empire. Around this time, the first and most comprehensive Western-authored book on the Ottoman world of letters by Giambatista Toderini was published in 1787, mentioned above concerning the significance of the *Multaqā* in Western authorship.[73] He lived in Istanbul as an Italian-origin Catholic priest between 1781-1786 and produced an extensive three-volume book on the Ottoman educational institutions and the world of letters.[74] Toderini's work was an important transitional text that contributed significantly to the conceptualization of the *Multaqā* as a code of law. Therefore, his discourse deserves further analysis here.

Toderini's book received wide acceptance by Western audiences in a very short period.[75] In the book, he wrote about the *Multaqā* within the con-

72 See further discussion and rebuttal of the idea of state's commissioning the *Multaqā,* Kopuz, "Reproduction of the Ottoman Legal Knowledge," 40-53; Has "A Study of Ibrāhīm al-Ḥalabī," 292.

73 In a recent article, Mahmud Adnan Gökçen observes that Toderini's *Litterature Turchesca* marked the first written work in the Western world about Ottoman literature. See Mahmut Adnan Gökçen, "G. Toderini'nin *Letteratura turchesca* Ünvanlı Eserinin *De la Litterature des turcs* Baslikli Fransizca (Antoine de Cournand) Tercümesinden Türkce Yapılan Ceviri Üzerine Bir Eleştiri," *Osmanli Araştırmaları/The Journal of Ottoman Studies*, no. 41 (2013): 383 (383-398). Has also mentions that Toderini's work was "one of the earliest sources to describe the Ottoman educational system" and notes that he mentioned the *Multaqā* as a significant work. See Has, "A Study of Ibrāhīm al-Ḥalabī," 292; "The Use of Multaqa'l-Abhur," 392. For further information on Toderini and his book, see Vildan Coşkun, "Gian Battista Toderini," *TDVIA* (2012), 41: 208-209.

74 Toderini, *Litterature*, 1: 23-4; Coşkun, "Gian Battista Toderini." For a critical evaluation of this book's translation into French and later into Turkish, see Gökçen, "G. Toderini'nin," 383-398.

75 After its first Italian publication in Venice (first published in Venezia, 1787), the →

text of his discussion of the law in the Ottoman Empire. At first, Toderini explained the place of fiqh in the Ottoman educational system and then explained the development of the Ottoman legal system.[76] At the point when he wrote about the law of the Ottoman Empire to "its full extent," he stated that it was divided into two branches: "theocratic law" (*fiqh*) and the law of the prince (sultanic law).[77] After providing lengthy information about the development and main characteristics of the "theocratic law," Toderini mentions the *Durar* as "the first attempt of Molla Hüsrev to lay down the theocratic law under the order of Mehmet the II."[78] He then wrote about the *Multaqā* as a "more extensive and more comprehensive" textbook of the theocratic law that was written during the reign of Suleiman I.[79] Toderini presents the *Multaqā* as the most comprehensive text of sharia law from the perspective of its place within the state judicial apparatuses. He mentioned the extensive use of the *Multaqā* by the jurists of the empire, but he did not directly name the *Multaqā* as a "code of the empire." For him, the *Multaqā* was both a significant textbook within the system of fiqh education and the main text that comprehensively covered "the theocratic law" of the empire. For jurists of the empire, the *Multaqā* was one of the most important texts for the judges in the empire, but for Toderini, it was the most comprehensive text that represented the sharia division of Ottoman law in contrast to the kanun division. Thus, the book was described as representing the empire's two divisions of law. In this sense, I argue that the representation of the *Multaqā* in relation to the state was an addition to how the book was viewed within Western intellectual circles.[80] I also argue that this was the early development of the

book was translated and published in French two years later, in 1789 (Paris, 1789), and translated and published in Germany in 1790 (Königsberg, 1790). The book was introduced to the Russian scholarly community by M. Bulgakov in the same years in its original language. See Coşkun, "Gian Battista Toderini."

76 Toderini, *Litterature*, 1: 23-41.

77 Toderini, *Litterature*, 1: 24.

78 Toderini, *Litterature*, 1: 41.

79 Toderini, *Litterature*, 1: 41. As discussed in my dissertation (Kopuz, "Reproduction of the Ottoman Legal Knowledge"), some Western writers thought that the *Multaqā* was written under Suleiman I, or as some claimed, written by an order from Suleiman I. This is a mistake, since the *Multaqā* was finished in 1517, and Suleiman's reign started in 1520. I would argue that this mistake may be because they view the *Multaqā* via the windows of the state, which would easily lead them to see the production of the *Multaqā* as a product of the sultan's order.

80 In the French translation of Toderini's *Letteratura turchesca*, the relevant passage says, "Le Mollah Cosrev reduisit le premier en systeme la jurisprudence theocratique, par ordre de Mohamet II. Il en parut un autre plus etendu and plus complet sous le Sultan Soliman I. Ce code fut compile avec beaucoup de methode par Ibrahim d'Alep, nomme Moltaki Alabhar, ou la reunion des mers, pour avoir rassemble →

concept of the *Multaqā* as a uniform "legal code" of the empire. Further development of the idea of the *Multaqā* as a code of the state would occur with another significant author, d'Ohsson, who became the most authoritative author in presenting the *Multaqā* to Western audiences. Notably, he was a Western and non-Muslim author who produced a comprehensive commentary on the *Multaqā*.[81]

When Antoine de Cournand translated Toderini's book into French and printed it in 1789-1790, another one of the most widely circulated and influential books in shaping the image of Ottoman law in Western circles emerged in 1788 in France. This time, the extensive content of the *Multaqā* itself was translated into French. Born and raised in Istanbul, the well-respected Ottoman Armenian author Ignatius Moradgea d'Ohsson (d. 1807) translated the bulk of the *Multaqā* into French under the title *Tableau Général de l'Empire Othoman, Divisé en Deux Parties, dont l'une Comprend la Législation Mahométane; l'Autre, l'Histoire de l'Empire Othoman*.[82] d'Ohsson translated the book with his own insertions and exten-

tout ce quavoient ecrit Codure, Mokthtar, Vakiat, Hadaiah, habiles juristconsultes." This passage would be translated into English as: "Molla Hüsrev combined the first system of the theocratic law, under the order of Mohammed II. There seemed to be another more extensive and more comprehensive code under Sultan Süleyman I. This code was compiled with great method by Ibrahim of Aleppo, called Moltaki Alabhar, or the meeting of the seas, having gathered all that written in Codure, Mokthtar, Vakiat, Hadaiah, the skilled jurists," Toderini, *Letteratura*, 41.

81 In the technical sense of the discipline of fiqh, d'Ohsson's work is not counted as a sharh commentary on the *Multaqā*. But from the perspective of the content of his work, it is an extensive commentary on the *Multaqā* that integrates social, cultural, and various non-fiqh elements.

82 The book of the *Multaqā* was translated into French by Ignatius Mouradgea d'Ohsson and the first edition of the seven volumes was printed between 1788-1824. See Ignatius Mouradgea d'Ohsson, *Tableau Général de l'Empire Othoman, divisé en deux parties, dont l'une comprend la législation mahométane; l'autre, l'histoire de l'Empire othoman,* 7 vols. (Paris: Imprimeria De Monsieur, 1-6 vols. 1788 and Paris: Firmin Didiot Freres Editeurs, 7th vol. 1824). The translation is famously known as the *Tableau General*, hereafter *Tableau.* In addition to translating the text of the *Multaqā*, the author included extensive interpretation and illustration of Ottoman culture, customs, and practices. Thus, he integrated extra-textual information and interpretation of Ottoman practices into the main text. In this way, d'Ohsson followed the tradition of writing a commentary (*sharh*) on a previously written authoritative text in a very limited and specific sense. This was a well-known practice in Arabic and Islamic literature from very early on. As discussed below, the commentaries on the *Multaqā* were mainly produced for the community of legal experts and religio-legal studies and practices, whereas the "commentary" by d'Ohsson was written for a Western audience who would be primarily interested in understanding the Ottoman state and society. In this sense, d'Ohsson's *Tableau* is a "sharḥ" on the *Multaqā*, but with a different scope and goal in mind. Further study of this issue is beyond the scope of this work.

sive comments on the original text in relation to the customs and daily life of particular Ottoman practices.[83] Furthermore, he rearranged its subjects and chose not to translate certain contents.[84] The first volume of d'Ohsson's translation was published in 1788 in France.[85] In the same year, d'Ohsson's *Tableau* was translated from France into English and published in Philadelphia.[86] d'Ohsson sees the *Multaqā* as "the code" of the empire. In his introduction to the English translation, he says of the *Multaqā* that "the code, which supersedes every other information respecting the canon law, is almost the only system of jurisprudence observed throughout the empire."[87]

As I mentioned, the *Tableau* was the first extensive introduction of the *Multaqā*'s content to the European world. With his own political and socio-cultural commentaries on the *Multaqā* that were grounded in the contemporary state of Ottoman practices, d'Ohsson wrote this book as a multivolume book. The translation served as a window into the inner elements of sharia law and, at the same time, a window into the Ottoman state and society. Within a commentarial frame, d'Ohsson wrote on Ottoman institutions, specifically about Ottoman administration, law, culture,

83 Findley says that d'Ohsson professed "to give a 'perfectly exact' translation" of the *Multaqā*. See Carter Vaughn Findley, *Presenting the Ottomans to Europe: Mouradgea d'Ohsson and His Tableau general de l'empire othoman* (Stockholm: Swedish Research Institute in Istanbul, 2003), 41

84 I used here the English translation of the d'Ohsson's *Tableau*. The book was translated into English and printed in Philadelphia in 1788 under a long title: *Oriental Antiquities, and General View of the Ottoman Customs, Laws, and Ceremonies: Exhibiting many Curious Pieces of the Eastern Hemisphere, Relative to Christian and Jews Dispensation* translator is unknown (Philadelphia: Printed for the Select Committee and Grand Lodge of Enquiry, 1788, reprinted by ECCO, Eighteenth Century Collections, LaVergne, Tennessee, 2011). For further analysis of the contents of his translation, see Albert Howe Lybyer, who said the following about d'Ohsson's *Tableau*: d'Ohsson "based his work [the *Tableau*] on the *Multeka ol-ebhar* which with its comments he rearranged and translated, adding to it a great many observations of his own." He wrote that "six of the seven volumes of the *Tableau*" are based on the *Multaqā*. See Lybyer, *The Government*, 320; Findley, *Presenting the Ottomans*.

85 For an extensive analysis and a complicated history of the publication of the *Tableau*, see Findley, *Presenting the Ottomans*, 23-57.

86 The first volume and a significant part of the *Tableau* were translated from French into English and printed in the same year, 1788, in Philadelphia. See *Oriental Antiquities, and General View of the Ottoman Customs, Laws, and Ceremonies: Exhibiting many Curious Pieces of the Eastern Hemisphere, Relative to Christian and Jews Dispensation* (printed for the Select Committee and Grand Lodge of Enquiry, reprinted by ECCO, Eighteenth Century Collections, LaVergne, Tennessee, 2011). Hereafter I refer to the book as *Oriental Antiquities*.

87 *Oriental Antiquities*, 33.

and traditions.[88] This dual way of presenting the *Multaqā*—as a normative and a discursive legal text fitting hand in hand with the contemporary Ottoman history, government system, customs, and daily practices—created an image of the *Multaqā* as though it stood alone in uniformity with state apparatuses and social practices above and beyond all other fiqh textbooks. I mentioned above that, as one of the most accomplished Western historians of the nineteenth century on the Ottoman Empire, Hammer objected to *Multaqā* overrepresentation in Western writings due to d'Ohsson's presentation of the *Multaqā* as if it were the only legal text.[89] After the *Tableau*, Toderini's presentation of the *Multaqā* in reference to the state became a more salient feature of the Western discourse on the *Multaqā*.

In presenting the *Multaqā* to Western audiences, d'Ohsson wrote about the *Multaqā* as a "new code."[90] He re-ordered the subjects of the *Multaqā* under the concept of five "codes" in the *Tableau*: "political code," "military code," "civil code," "judicial code," and "penal code." In the book's original ordering, the subjects of the *Multaqā* were not categorized in this way. As an author of a fiqh textbook, al-Ḥalabī followed the classical system of ordering fiqh subject matters. [91] d'Ohsson re-configured the book in a new way, giving it a modern dress.[92] In doing so, d'Ohsson re-framed

88 In his highly valuable and extensive study on the life of d'Ohsson and his *Tableau,* Carter Findley makes the following observation about the content of the *Tableau*: "In the aggregate, about five-sixths of the work has to do with 'law,' or more aptly religious subjects, and one-fifth contains the account of the Ottoman administrative system." See Findley, *Presenting the Ottomans*, 39-47 for an analysis of d'Ohsson's translation, re-ordering, and interpretation of the *Multaqā*.

89 See footnote 71 above. For details of Hummer's view on the nature of fiqh (Islamic law) and its Ottoman version, see Hammer, *Des Osmanischen,*1-171.

90 Similar to Toderini, d'Ohsson briefly introduced the *Durar* as the first Ottoman fiqh code written at the time of Mehmed II. For both authors, however, the *Durar* functioned as a backdrop to the Multaqā, and for d'Ohsson, the Multaqā became the central focus of understanding the Ottoman state and society. See *Oriental Antiquities*, 32.

91 Findley, *Presenting the Ottomans*, 40. d'Ohsson discussed "issues pertaining to rulership and sovereignty" under the title "political code." He "discuss[es] topics such as rules of war, booty, captives, rebels, and tributary subjects" under the title "military code." Under "civil code," he "includes books on marriage, divorce, child custody, estates, slavery, commerce and 'diverse laws pertaining to person and property.'" He used the title "judicial code" to discuss judgeship and court procedure. Under the title "penal code," he "discuss[es] the punishments defined in sharia law (*hudud*), those imposed on the ruler's authority (*ta'zir*, *te'dib*), and reparations in cases of injury." See *Oriental Antiquities*, 40.

92 It is interesting to notice here that a well-known and highly influential professor, Muṣṭafā Aḥmad al-Zarqā' (d. 1999), who is recognized as one of the top ten scholars of the Islamic law of the twentieth century, was trained in modern law schools in Damascus and Cairo as well as in traditional Islamic fiqh educational system. He →

the *Multaqā* in a modern Western mode of legal conceptual categorization that was itself reinvented during the process of formation of the modern state. This has placed the *Multaqā* in a unique position framed within the parameters of statist approaches to the law.

Findley reminds us about the problematic nature of using the term legal "code" for a fiqh textbook and says that "few scholars would consider [the term code] applicable to sharia law."[93] However, Findley does not pursue a full discussion of the issue and offers no conclusive remarks on the use of the term "code" to translate fiqh terms. His focus is not on fiqh in a general sense. Nevertheless, one would expect him to problematize the way d'Ohsson presented the textbook of the *Multaqā* as a "code" of the empire, especially within the context of his article, where he focuses on "presenting the Ottomans" to Western audiences. In fact, d'Ohsson presented both books, the *Durar* as well as the *Multaqā,* as "codes," with the qualification that he adds as "universal code."[94] As seen below, this view of the fiqh textbooks as fixed "codes" started to be more frequently used in Western writings and was even criticized at the end of the nineteenth century, at least in the writings of Cheragh Ali, whom we have already mentioned above.

Findley, however, does note how d'Ohsson used the term "code" to frame a rubric in his translation of the topics from the *Multaqā*. Findley discusses the issue while analyzing the content of the *Tableau* in relation to the *Multaqā*. Findley says that d'Ohsson used the term "codes" "to designate

wrote a new fiqh book called *al-Fiqh al-Islāmī fī thawbihī al-jadīd: al-Madkhal al-fiqhī al-'ām*, which translates into English as *Islamic Fiqh in its New Dress: A General Introduction to Islamic Law*. Unlike the traditional way of ordering the content of the fiqh book, he separated and left out the subjects under *ibadat* that deal with Islamic rituals in the everyday life of ordinary Muslims. The subjects of the *ibadat* were traditionally always included in organizing the content of any fiqh textbook. See Muṣṭafā Aḥmad al-Zarqā', *al-Fiqh al-Islāmī fī thawbihī al-jadīd: al-Madkhal al-fiqhī al-'ām*, 3 vols. (Damascus: University of Damascus Press, 1961). The subject of presenting fiqh in the form of modern legal categories, and re-producing the fiqh in codified form, as is the case in the Ottoman codification of the *Majalla*, remains much debated and analyzed by contemporary authors—who are trained in history or in law, modern civil law, and/or Islamic law. For more details about the debates and arguments on the issue of codification, see, for example, Sami Erdem, "Fıkıh Tarihi: Osmanlı Hukuk Düşüncesinde Modern Yorumlar İçin Yeni Bir Referans Çerçevesi." *TALİD, Türkiye Araştırmaları Literatüre Dergisi,* 3/5 (2000): 85-105.

93 Findley, *Presenting the Ottomans*, 40. In footnote 130, Findley quotes Stephen Humhpreys's statement: "the Sharia is not a fixed code, but a vast, amorphous, ever-changing record of debate." See Stephen Humphreys, *Between Memory and Desire: The Middle East in a Troubled Age* (Berkley: University of California Press, 1999), 233.

94 In two places, d'Ohsson mentioned the term "universal code" in reference to fiqh in general and the textbooks of the *Durar* and *Multaqā* in particular. See *Oriental Antiquities*, 32 and 37.

rubrics under which he groups related provisions -political, military, civil, judicial, and penal."[95] Thus, the designation of the "rubrics" for categories of certain legal provisions may explain the specific use by d'Ohsson. Nevertheless, I would still argue that d'Ohsson's presenting the *Multaqā* as a legal "code" was an influential step toward the conceptualization of the *Multaqā* as the "legal code" of the empire, as if the book were implemented uniformly and unanimously in every corner of the Ottoman state, as though it were a modern nation-state. He expressed an exclusivist position of the *Multaqā*, describing the text under the topic "concerning the digesting of the universal code." He wrote, "This code (*Multaqā*), which supersedes every other information respecting the canon law, is almost the only system of jurisprudence observed throughout the empire."[96] He then explained, "It comprehends, together with all the forms of external worship, the civil, criminal, moral, political, military, judicial, fiscal, sumptuary, and agrarian laws."[97] Thus, he argued that the book contains a comprehensive legal code for a modern state.

Findley observes that "d'Ohsson thus presented the sharia as a comprehensive, rationally intelligible, legal system. For European readers of the 1780s, accustomed to couch critiques of their own societies in praise for others, the idea that the Ottoman Empire had a consistent, all-embracing law code placed the Ottomans on a level that the France of the 1780s could not match – at least if those readers accepted d'Ohsson's argument."[98] Furthermore, Findley says that d'Ohsson tended to "'explain things' with terms that are closer to European than to Islamic thinking."[99] This, I would argue, may have helped the European readers of d'Ohsson's time to more clearly understand and appreciate the Ottoman legal system. However, at the same time, the notion of fiqh, and specifically the *Multaqā* as the "code of the empire," became a source of criticizing the Ottoman legal system in the nineteenth century. In the eyes of many Western authors, the *Multaqā* was the embodiment of legal frozenness and inefficiency. As will be seen below, Ottoman society itself started to be viewed as savage and barbaric in relation to the *Multaqā*.

After d'Ohsson introduced the *Multaqā* to Western audiences, Western scholars' discourse on the significance of the *Multaqā* developed in two main directions. One discourse continued to qualify the *Multaqā* as an

95 Findley, *Presenting the Ottomans*, 40.
96 d'Ohsson, *Oriental Antiquities*, 33. See also Findley, *Presenting the Ottomans*, 41.
97 d'Ohsson, *Oriental Antiquities*, 33.
98 Findley, *Presenting the Ottomans*, 42.
99 Findley, *Presenting the Ottomans*, 43.

ultimate "code" of sharia law that existed independently of the state. Within this discourse, the *Multaqā* was still viewed as a code of law but not necessarily a uniform law of the state. The other discourse developed a stronger association between the *Multaqā* and the state, even describing it as the "constitution" of the Ottoman Empire.

The *Multaqā* is Boldly Defined as a Uniform "Code of Law"

A bolder assertion of the *Multaqā* as a code of law started to appear in Western writings in English with the work of Thomas Thornton (d. 1814) in 1807.[100] Thornton wrote *The Present State of Turkey; or A Description of The Political, Civil, And Religious Constitution, Government, And Laws of the Ottoman Empire*.[101] Thornton even named the *Multaqā* as a constitution of the empire. His legitimacy in writing on the Ottoman state and society came from his extensive time living in the empire. He was born and raised in London but lived in Istanbul for about 15 years at around the turn of the nineteenth century. He was first appointed as consul to the Levant Company in Istanbul in 1790 and traveled extensively throughout Anatolia.[102] With the intention to write a book on the Ottoman Turks, he gathered materials on issues related to Turkish society, customs, habits, and institutions while living in Istanbul and traveling in Anatolia.[103] He was known as a British merchant and writer on Turkey.[104] Like Toderini and d'Ohsson, Thornton criticized earlier European writers on the empire for being erroneous on various points in his book. Thornton's writings were sympathetic to Turkish society, and he spoke favorably of the Ottoman Empire.[105]

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100 Within the context of showing the significance of the *Multaqā* among Western authors, Has brings up the issue of Thornton's description of the *Multaqā* as a "code of the law" and says, "Although clearly this is an exaggerated statement, Thornton had spent some fifteen years in Istanbul at the end of the eighteenth century, and his statement must reflect the prominence of the *Multaqā* as a law book at that time." See Has, "The Study, 304; "The Use of Multaqa'l-Abhur," 404.

101 Thomas Thornton, *The Present State of Turkey; or A Description of the Political, Civil, And Religious Constitution, Government, And Laws of the Ottoman Empire* (London: Printed for Joseph Mawman, 1807).

102 Mark Donoghue, "William Thomas Thornton's Family, Ancestry, and Early Years: Some Findings from Recently Discovered Manuscript and Letters," *History of Political Economy* 40, no. 3 (2008): 517 (511-550); Edward Irving Carlyle, "Thornton, Thomas (d. 1814)," *Dictionary of National Biography, 1885-1900*, 56.

103 Donoghue, "William Thomas Thornton's Family."

104 Carlyle, "Thornton, Thomas (d. 1814)."

105 It is beyond the scope of this study to discuss Thornton's presentation of the Ottomans, but it is important to note his favorable treatment of his subject. Carlyle claimed that "Thornton is extremely favorable to the Turks, protesting against the abuse poured on them in former works owing to their friendship with France," and →

One of the sources Thornton referred to in his writings is d'Ohsson *Tableau*. He used this source the most in the chapters where he addressed the customs, morals, and daily life of the Ottomans, as well as in the chapters where he wrote about the Ottoman "constitution," law, and administration. It is apparent that he took the idea of the *Multaqā* being a code of law from d'Ohsson. As discussed above, d'Ohsson's use of the term "code" is in the sense of a rubric to contain related provisions. Thornton, however, used the term more explicitly in a statist frame. He utilized the statist approach more clearly than d'Ohsson and used the term "constitution" within his title, under which he described the *Multaqā* as a code of the state. He named the title of chapter three in *The Present State* "Constitution on the Ottoman Empire," and boldly stated at the very beginning of the chapter: "The Ottoman empire is governed by a code of laws called *Multaqā*."[106] Further down, he described the components of the *Multaqā* as a "code," and added, "This code is a general collection of laws relating to religious, civil, criminal, political, and military affairs; all equally respected, as being theocratical [sic], canonical, and immutable; though obligatory in different degrees, according to the authority which accompanies each precept."[107]

While the conceptualization of the *Multaqā* as a code of law began to emerge at the turn of the century, there also arose criticism of such conceptualization. Thornton was aware of and criticized the authors who did not see the *Multaqā* as a "code" in a technical legal sense. In his footnote on page 92, Thornton wrote: "M. Ruffin, on the authority of M. le Comte de St. Priest, denies that the *multeka* is a code, since it is only the sum of the opinions of an infinite number of commentators, who never made one single law."[108] This shows that Thornton made a conscious choice between viewing the *Multaqā* as a fiqh textbook and viewing it as a "code" of the state, and that he chose the latter. Why would this be?

Further analysis of Thornton's book within its context shows that he made this choice to argue against his opponents who saw the judicial system of the Ottoman Empire as chaotic and inconsistent.[109] He argued that the

that Thornton severely criticized William Eton's *Survey of Turkish Empire* (1798). See Carlyle, "Thornton, Thomas (d. 1814)."

106 Thornton, *The Present State of Turkey*, 91.

107 Thornton, *The Present State of Turkey*, 92.

108 Thornton cited further passages from M. Riffin to show his reasoning for not considering the *Multaqā* as a code. He cited the following passage: "'If the *koran*,' he (Riffin) says 'be not the code of the Mahometan, they have none, and have at most only a jurisprudence'" (De Tott, Appendix, 41), Thornton, *The Present State of Turkey*, 92.

109 Interestingly, the same debate continues today. See Haim Gerber, *State Society and Law in Islam: Ottoman Law in Comparative Perspective* (New York: State University of New York Press, 1994), 30.

empire actually had "a uniform code of law" that governed the state and its judiciary. Criticizing those who claimed that Ottoman judges did not have a legal framework that limited their authority, Thornton wrote, "[i]t is erroneous to suppose 'that the judges are not bound by any preceding decrees, but that they have application of the law in their own breasts,' for on the contrary the code *Multaqā,* ever since the period of its compilation in the reign of Soliman the First, is almost the only book made use of by the *cazy-askers*, the *mollas*, the *cadis*, and the *naibs*, in all the tribunals and courts of law throughout the whole extent of the Ottoman empire."[110] In order to strengthen his claim of uniformity in the practice of Ottoman law, Thornton further argued that "[i]t is expressly enjoined to the *cadis* … to follow the most prevailing opinions of the *Imams Hanefys* in the administration of the justice."[111] He further said, "In Turkey the laws indeed are simple, and by no means numerous; and the forms are little complicated."[112]

The Discourses Over the Legal Nature of the *Multaqā* Continues in the Middle of the Nineteenth Century and Beyond

An increasing number of books on the Ottoman Empire began to emerge around the mid-nineteenth century, coinciding with the start of intense legal reforms in the Ottoman Empire. Almost all the authors of these books mentioned or wrote at length about the *Multaqā*. Abdolonyme Ubicini produced books and articles on the Ottoman Empire in French in the 1840s,[113] with the first edition of his book on the Ottoman Empire published in 1839 in French. A decade later, a second edition of the book was published in 1851, and a third in 1854. Within the same decade, the book was translated into English under the title *Letters on Turkey: An Account of the Religious, Political, Social and Commercial Condition of the Empire* and printed in London in 1856. The book was also translated into Italian and

110 Thornton, *The Present State of Turkey*, 148.

111 Thornton, *The Present State of Turkey*, 148.

112 Thornton *The Present State of Turkey*, 149.

113 Jean-Henri-Abdolonyme Ubicini (d. 1884)'s book was published first in French under following title: *Letters sur la Turquie ou tableau statistique, religieux, politique, administratif, militaire, commercial etc. de l'Empire ottoman depuis le khatti cherif de Gulkhane 1839* (Paris, 1851-1853). His book was then translated into English with the title *Letters on Turkey: An Account of the Religious, Political, Social and Commercial Condition of the Ottoman Empire,* trans. from French by Lady Easthope (London: John Murray, 1856), and translated into Italian with the title *Lettere Sulla Turchia* (Milan, 1856). For further details on Ubicini's life, see Zeki Arıkan, "Ubicini, Jean-Henri Abdolonyme," *TDVIA* (2012) 42: 32-33; R. H. Davison, *Reform in the Ottoman Empire: 1856-1876* (Princeton: Princeton University Press, 1963), 460.

printed in Milan the same year. These close-range multiple printings of the same book indicate that the book had a wide circulation in the middle of the century.[114]

In the *Letters*, Ubicini provided a detailed evaluation of the *Multaqā*'s content and described it as one of the "two vast collections, which form two codes" of the Ottoman Empire.[115] Ubicini's emphasis on the "two codes" of the empire differs from other authors, who focused on the *Multaqā* as the sole uniform legal code of the empire. Unlike previous authors, Ubicini more strongly presented the *Multaqā* as an ultimate and fixed code of sharia law. He claimed that the *Multaqā* "has been regarded as an authority without appeal" since the reign of Suleiman I.[116] This idea fed strongly into the broader concept of the door of *ijtihād* being closed in Islamic legal thought. Ubicini wrote, "all these [previous Hanafi legal] opinions having been determined and fixed in the code *Multequa*, the modern legists are in the habit of saying, '*Idjtihad kaponcou* [sic.] *kapandi*' (the door of interpretation is closed)."[117] Ubicini's presentation of the *Multaqā* as a fixed "code" followed the conceptual pattern that had started to develop among the European writers on Ottoman law, such as Toderini and d'Ohsson.

By the middle of the nineteenth century, the concept of the *Multaqā* as a code of the empire became one of the most accepted views among authors writing on the Ottoman Empire. The books written and printed as a response to European audiences' increasing demands to know more about the Ottoman Empire re-presented then-available information within a new frame of conceptualization with renewed language, emphasis, and thematic structure, but without a new critical and deeper study of the subjects that available sources on the Ottoman state were presenting. Most of these books were written for wider popular consumption.

One such book was written by William Deans under the title *History of the Ottoman Empire, from the Earliest Period to the Present Time* and printed in 1854,[118] when interest in the Ottomans was on the rise due to an international crisis involving the Ottoman Empire and Eastern Europe.[119] The crisis created a market for renewed and wider popular interest in the

114 I used here the English version of the book.

115 Ubicini, *Letters on Turkey*, 138.

116 Ubicini, *Letters on Turkey*, 139.

117 Ubicini, *Letters on Turkey*, 137.

118 William Deans, *History of the Ottoman Empire, from the earliest period to the present time* (London: A Fullarton & co., 1854).

119 The 1850s were a decade of rising international crisis between the Russians, Ottomans, and major European countries, most importantly Britain and France. The famous Crimean War took place between 1854 and 1856.

Ottoman state and society among Europeans, and publishers responded promptly. In the preface of Deans' book, for example, the publisher wrote the following: "To write a complete history of the Turkish people, and of the empire founded by Othman, would involve an amount of labour which would occupy many years, and such a work would necessarily extend over many volumes. The following pages have no such pretensions. But at *the present crisis,* when the *attention of the civilized world* is anxiously directed to the contest in which Turks are engaged, it has been considered desirable that a work embracing a condensed view of their history, in form easily accessible, should be given to the public. This the author has attempted" (the italics are mine).[120]

As mentioned above, by the nineteenth century, the *Multaqā* was viewed more as the code of the empire's "theocratic" branch of the law. This development led the authors to repeat the same concept in their writings on the Ottoman Empire for popular consumption. In turn, Ottoman "theocratic" law was seen only as a code of law that had remained unchanged from Suleiman I's time until the present. Earlier authors had mentioned the textbook of the *Durar* as another fiqh textbook in a similar context alongside the *Multaqā*. By the mid-nineteenth century, however, authors did not even mention the *Durar* as an equally significant fiqh text. Deans mentioned the *Multaqā* in the last chapter of his book, titled "Government, laws, religion, education and character of the Turks."[121] There, he says, "The laws of this country [the Ottoman Empire], both civil and criminal, are founded upon the precepts of the Koran; the example and opinion of Mahomet; the precept of the four first caliphs; and the decisions of the learned doctors upon disputed cases. These are digested in one large volume under the title of *Multeka* [sic.], and form *the universal code of the empire*" (italic emphasis is mine).[122]

Deans wrote about the *Multaqā* as "the universal code of the empire" in the context of showing that there was strict, religiously binding law in the empire. As a result, he argued, "[r]eform of institutions … is difficult, in a Mahomatan state; for it can be attempted only at the hazard of destroying the great bond of nationality, Mahometanism [sic.] itself." In these lines, he presented the *Multaqā* as a binding and universal code with a strict superstructure that would make reforms in the Ottoman Empire impossible. Nonetheless, the author presented these arguments during the Tanzimat reforms, which were keenly observed by Western audiences. But a few lines later, he

120 Deans, *History of the Ottoman Empire*, III.

121 Deans, *History of the Ottoman Empire*, 308-322.

122 Deans, *History of the Ottoman Empire*, 313.

portrayed the *Multaqā* as an ambiguously worded text to support his argument that the qadis of the empire based their decision on bribes: "From the obscurity and ambiguity of many of the injunctions of the Multeka, much is left to the discretion of the judges; … The *Cadi* [qadi] or judge determines all matters civil, criminal, and ecclesiastical. The decision is prompt and final; but it often depends upon the previous bribe."[123] Thus, in Deans' discourse, the *Multaqā* was presented as a binding "universal code," unamicable to the idea of reform. Yet, at the same time, he explained the text as so ambiguous and obscure in wording that it allowed the judges to manipulate this "universal code" to fit their corrupt desire. During this time, the widespread discourse on Ottoman law and society portrayed the *Multaqā* as a frozen and centrally important document. This depiction became much more visible in the writings of James L. Farley and Malcolm MacCall toward the end of the nineteenth century. I discuss this further below.

It was amid the discourses over the Tanzimat reforms in the Ottoman Empire that Larpent decided to re-publish his grandfather Porter's book in 1854. The new format extended the scope of the original text to cover the events of the mid-nineteenth century, and the *Multaqā* was presented in a new conceptual frame as a code of the state. As noted above, Larpent used the concept of the *Multaqā* as a "uniform legal code" within the context of arguments about the Tanzimat reforms. The actual author of the second volume of *Turkey* that Larpent printed is unclear. As its editor, Larpent wrote in the preface to the first volume that the "documents and correspondence" of his grandfather Porter "form the basis of these" two volumes.[124] After explaining his work in the first volume, he explained, "As regard to the second volume, which refers entirely to the progress of Turkish reform, the editor has to express his acknowledgements for the ample sources placed at his command by foreign literature, and more especially by Ubicini's 'Lettres sur la Turquie,' a most valuable book in every respect."[125] Because the second volume "refers entirely to the progress of Turkish reforms," this indicates that Larpent authored the second volume. The reforms that he wrote about, such as the reforms of Selim III (r. 1789-1808),[126] Mahmud II (r.1808-1839),[127] and the Tanzimat[128] all occurred

123 Deans, *History of the Ottoman Empire*, 314.

124 Larpent, *Turkey*, 1:III.

125 Larpent, *Turkey*, 1:V.

126 Larpent, *Turkey*, 2:5, 230, 271-278, and other scattered places where the author discusses the various reforms of Selim III (r. 1789-1808).

127 Larpent, *Turkey*, 2:154-163, 278-281, and other scattered places where the author wrote about the various reforms of Mahmud II.

128 Larpent, *Turkey*, 2:16-27, where the author included an entire section on the Tanzimat.

after Porter's death (1786). In his introduction to the second volume, Larpent did not specify his sources for this volume since he already limitedly explained this in the first volume. However, in the second volume's introduction, Larpent gave a broader explanation of the contemporary condition of the Ottoman Empire—that is, its condition in the first half of the nineteenth century. This suggests it is highly possible that at least most of the second volume was a product of Larpent's own authorship.

In his introduction to the second volume, Larpent wrote about the reforms of Mustafa Rashid Pasha and the Tanzimat. He mentioned the reforms in the field of the judiciary and law and brought up the concept of "the law of the land," which he claimed was "virtually applied, and universally respected" in the empire.[129] The modern legal concept of the "law of the land" in reference to the Ottoman state was a nineteenth-century development, one frequently used by writers in the West.[130] Interestingly, Porter wrote in the first volume about the uniform law of the country without any reference to the *Multaqā*, but here, in the second volume, the author expressly referred to the *Multaqā* as the "unchangeable" code of the country.

After a broader introduction to "the Ottoman legislature," which Larpent divided into two branches ("the political law" and "the theocratic" law), he addressed two major compilations of the law for each branch of Ottoman law. For the first one, he mentioned the sultanic Kanoun that had existed since the time of Suleiman I.[131] For the second one, he mentioned the *Multaqā*. He explained, "The second compilation which, since the time of Suleiman, possesses entire authority through the empire under the emphatic title of the Multequa-ul-Ubhur [sic.] (the junction of the two seas),

129 Larpent wrote: "It is now the law of the land, virtually applied and universally respected." See *Turkey*, 2:8-9.

130 Larpent, in *Turkey*, 2:11, referred to "the Mussulman code, in its double civil and religious character" within the context of relaying what was written in a contemporary Ottoman newspaper, the *Moniteur Ottoman*. This indicates that the concept of the uniform "law of the land" in reference to the Ottoman state was in circulation during this time. It is beyond the scope of this paper to analyze the emergence in Western writings of the concept of a code of law as a uniform "law of the country" in relation to the Ottoman state. However, within the limits of this concept's relations to the *Multaqā*, I discuss the issue below within the context of the writings of Toderini, d'Ohsson, and other contemporary authors who make special reference to the *Multaqā*.

131 Larpent presented the "Kanouns" of Suleiman I as the first compilation of "the political law," and claimed that "[t]he different regulations of this code, which have formed in some measure the constitution of the empire, were maintained with more or less scrupulousness by the successors of Suliman, up to the time of the Tanzimat." See Larpent, *Turkey*, 2:81.

is the work of the sage Ibrahim Halebi."[132] Larpent further claimed that the codes were collected in this book in an unchangeable manner. He said, "The author [of the *Multaqā*] collected in it all the decrees, since the foundation of Muhammadanism, on the different branches of jurisprudence and theology, emanating from the doctors of the law, his predecessors. Dogma, morality, civil and political law were all regulated in an *unchangeable* manner, so as to *render any future glossary or interpretation unnecessary*" (italics are mine).[133] After his introduction, the author gave further details about the content of the *Multaqā* as a set of codes for each topic.[134]

As mentioned in the introduction to his book, Larpent used Ubicini's work as a source for editing or compiling the second volume of *Turkey*. Within the text itself, Larpent also included the names of Giambatista Toderini (1728-1799)[135] and d'Ohsson,[136] whose works he also used for editing or compiling *Turkey*. However, when he wrote about the *Multaqā*, Larpent did not reference Ubicini or any other authors mentioned above. It is thus unclear what sources he specifically used when speaking about the *Multaqā*. After comparing the content of *Turkey* on the *Multaqā* and previous sources, it seems likely that he used information on the *Multaqā* from Toderini and d'Ohsson. For example, Larpent's concept of the *Multaqā* as a "code of law" and his divisions of its contents into sets of codes resembles the contents of the *Tableau* by d'Ohsson.

Larpent also depicted the *Multaqā* as a fiqh textbook—as a text for Ottoman jurisprudence. Although there were other equally significant fiqh textbooks within Ottoman scholarship—like the *Durar*, which Toderini also mentioned—Larpent only mentioned the *Multaqā*, which he wrote was one of "the great Ottoman compilations" within the context of addressing "the present condition of Turkish literature."[137] This leads me to conclude that Larpent likely used the concepts developed in the representation of the *Multaqā* as a "fiqh textbook" and a "code of law" from the sources produced by Toderini and d'Ohsson at the turn of the century.

132 Larpent, *Turkey*, 2:83.

133 Larpent, *Turkey*, 2:83.

134 Larpent makes specific mention of the *Multaqā* in his *Turkey* when speaking about the code of slavery (*Turkey*, 2: 90), the laws of matrimony (2:99), and polygamy (2:366). He divides the relevant sections from the *Multaqā* into four: "Slavery Laws," "The Laws of Matrimony, "The Administrative Justice," and "The Dispensers of the Law." For further details on his account of these sections from the *Multaqā*, see Larpent, *Turkey*, 2: 83-126.

135 Larpent, *Turkey*, 2: 170-188. Toderini's work is discussed below.

136 Larpent, *Turkey*, 2:171, 195, 216.

137 Larpent, *Turkey*, 2: 170-188.

The Concept of the *Multaqā* as a Uniform Legal Code is Contested

As mentioned above, the concept of the *Multaqā* as a "code of the state" remained a contested concept even after significant works of Western literature insisted on representing the book as such. Has argues in his dissertation and articles that the *Multaqā* was widely chosen "not only as a textbook for the madrasas but also as a handbook for qadis and muftis" in the Ottoman Empire.[138] Uzunçarşili also claims in his widely read book on madrasas that after the second half of the sixteenth century, Ottoman judges started to make decisions according to the *Multaqā* and its commentaries.[139] As shown above, the Ottoman and European authors agreed that the *Multaqā* was widely studied and used as a textbook for students of the Ottoman madrasas, and that it was also used as a reference book for judges, muftis, and imams in the formation of their legal decisions and religious opinions. However, contrary to European writers, as I discussed above, the Ottoman sources show that the Ottoman authors who mentioned the *Multaqā* did not present it as a "uniform legal code" of the empire. In fact, Cheragh Ali, a prominent nineteenth-century Muslim Indian writer, criticized this approach in his book about nineteenth-century reforms in the Ottoman Empire. Ali wrote within the context of answering the critiques of the authors James L. Farley[140] and Malcolm MacColl.[141] Both authors criticized the Ottoman government's treatment of minorities within the empire in the late nineteenth century. In their criticisms of the empire's governmental practices, both authors point to the *Multaqā* as a conceptual frame for their arguments against Ottoman practices. Like other European authors, both Farley and MacColl treat the *Multaqā* as a uniform code of law of the empire. They add another dimension to their discourse on the *Multaqā* as a code of the empire: the *Multaqā* as a "sacred" text, requiring religious obeisance from all Ottomans.

138 Has, "The Use of Multaqa al-Abḥur", 393-418; "A Study of Ibrāhīm al-Ḥalabī," 212; "Mülteka'l-Ebhur", *TDVİA* (2006), 31:421-423; "Halebî, İbrahim b. Muhammed", *TDVİA* (1997), 15: 231–232.

139 Uzunçarşılı, *İlmiye Teskilati*, 115.

140 Ali, *The Proposed Political, Legal and Social Reforms*, 95. Ali quotes from Farley, *Turks and Christians*, 24, where Farley used the *Multaqā* as a source in discussing the Ottoman treatment of minorities.

141 Malcolm MacColl, "Some Current Fallacies About Turks, Bulgarians, and Russians", *The Nineteenth Century: A Monthly Review*, 2 (London, August-December, 1877): 831-842. Has did not include Malcolm MacColl's treatment of the *Multaqā* in his studies. See Has, "A Study of Ibrāhīm al-Ḥalabī", 289-311; "The Use of Multaqa al-Abḥur", 393-418.

Among the authors who produced the discourse of the *Multaqā* as the uniform code of the empire, both Farley and MacColl's treatment of the *Multaqā* as the "sacred law of Turkey" was extreme. Farley treated the *Multaqā* as being in direct opposition to the Tanzimat reforms. He argued that the Tanzimat regulations would fail because they contradicted, according to Farley, the *Multaqā*'s precepts. Within this context, Farley said that the *Multaqā* was "[r]evered almost equally with the Koran, the Multeka is the religious, civil, penal, political, and military code of the Ottoman Empire, and the Hatt-y-Humayoun contains scarcely an article which is not in direct contradiction to the decisions of the orthodox doctors contained in that book. Will the Tanzimat overthrow the Multeka? The answer is plain. No."[142]

With a similar line of argument, MacColl wrote, "The sacred law of Turkey, which is codified in the Multeka, dominates over all person and institutions from Sultan downward, and it is the duty of every Mussulman to disobey the Sultan himself if he promulgates a law or gives an order which is opposed to any precept in the Multeka. Hence it follows that the provisions of the Multeka are not in the least like some penal law on our English statute-book which has fallen into desuetude and oblivion. … Like the law of Moses in the Jewish commonwealth, it is of perennial obligation; and it prevails in Turkey now in exact proportion to the degree in which the government of the Sultan finds itself independent."[143]

In both these authors' writings, the *Multaqā* was placed at the center stage of discourse as a sacred and frozen text and viewed through the newly developed concept of the "modern state" in Europe. They criticized the status of minorities in the nineteenth-century Ottoman Empire and claimed that the reforms of the Tanzimat era could never be successful because no law and regulations could override the *Multaqā* as a uniform "sacred law of Turkey." That was, of course, only in the eyes of Farley, where the *Multaqā* was seen as sacred and "revered almost equally with the Koran."[144]

142 Farley, *Turks and Christians*, 155-156.

143 MacColl treated the *Multaqā* as the "sacred law of Turkey" and claimed that "the sacred law of Turkey, which is codified in the Multeka, dominates over all persons and institutions from the Sultan downwards." The author wrote this within the context of his discussion on the treatment of minorities in the empire and claimed that not even the sultan could do anything but implement the "sacred codes" in the *Multaqā*. See MacColl, "Some Current Fallacies," 831-842 (836).

144 Farley's generalization that Ottomans revered the *Multaqā* "almost equally with the Koran" was a grave exaggeration. In Islamic theology, no book, even if it contains only the sayings of the Prophet Muhammed, is considered equal, or "almost" equal, to the Quran in its sacredness.

Cheragh Ali criticized this typical orientalist approach to the *Multaqā*.[145] He countered, "The Multeka is not the legal Code of Turkey. It is one of the several treatises compiled by different authors in every age, and in every Mohammadan country."[146] After detailing the sources from which the *Multaqā* was compiled and its division into a portion on devotional ritual and a second portion on "civil codes," Ali stated that similar legal treatises "are read everywhere in the Mohammadan countries, and new law books, though mere transcripts of the former ones, are compiled by the Mohammadan students even in India, but they are not acted upon, especially in connection with the second part, or civil portion of them."[147] Ali further stated that these books were "merely copied like dead-letters."[148] However, Ali continued that these "compilations are generally mere transcripts of one another, without possessing anything new or original in themselves."[149] My study tests this argument about this alleged lack of originality. I study the *Multaqā* as a treatise with the hypothesis that the *Multaqā* and the many commentaries on it bear originality and authenticity within their social contexts, where these books were part of a tradition of knowledge production.

The *Multaqā* as a Code of Law in the Writings of Authors in the Twentieth Century

The trend of presenting the *Multaqā* as a code of law continued in the twentieth century. Albert Howe Lybyer, for example, spoke about the *Multaqā* as the "code" of the empire in his book on Ottoman history.[150] His book, *The Government of the Ottoman Empire*, was printed in 1913. Lybyer was an English writer on the Ottoman Empire who taught in American universities, including Harvard, in the early twentieth century. English writers cited his book as one of the main sources on the Ottoman Empire through the late twentieth century.

145 Ali, *The Proposed Political, Legal and Social Reforms*, 95.

146 Ali, *The Proposed Political, Legal and Social Reforms*, 95. As mentioned above, von Hammer raised a similar objection against the practice of singling out the *Multaqā* as if it were the only text the Ottoman jurists relied on to formulate their legal opinions. See footnote 71 above.

147 Ali, *The Proposed Political, Legal and Social Reforms*, 96-97.

148 Ali, *The Proposed Political, Legal and Social Reforms*, 97.

149 Ali, *The Proposed Political, Legal and Social Reforms*, 95.

150 Albert Howe Lybyer (1879-1949) was a historian of the Middle East who taught at Oberlin College between 1909 and 1913 and at various other universities. He also served as an advisor on American policies in the Middle East. For more details, see http://www.oberlin.edu/archive/holdings/finding/RG30/SG314/biography.html, last accessed June 2018.

At the end of his book, Lybyer described the sources he used.[151] Like previous authors, he claimed that Suleiman I commissioned the *Multaqā*. Lybyer wrote, "Suleiman charged Sheik Ibrahim Halebi (of Aleppo) with the task of preparing such a code; and the result, prepared before 1559, was the *Multeka ol-ebhar* [sic.], the 'Confluence of the Seas,' which remained **the foundation of Ottoman law until the reforms of the nineteenth century**" (italics are the author's and the highlight is mine).[152] This shows that Lybyer did not critically evaluate the claim that Suleiman I commissioned the book; instead, he accepted the claim as transmitted in earlier sources.[153] That said, Lybyer did mention that "the *Multeka* did not, however, entirely replace the previous codes and collections of *fetwas*, or authoritative juristic opinions, which continued to be used as law books of less weight" (author's italics).[154]

Various other authors cited the *Multaqā* as the code of the empire.[155] Because I have already traced the major shift in the Western representation

151 Lybyer, *The Government*, 305-322.

152 Lybyer, *The Government*, 153.

153 Lybyer said that his writings on Ottoman law and the *Multaqā* are largely based on the works of Von Hammer, d'Ohsson, and Heidborn. See Lybyer, *The Government*, 153n1.

154 Lybyer, *The Government*, 153.

155 Another important author who offered much information and analysis on the *Multaqā* was A. Heidborn, who wrote *Manuel de Droit Public et Administratif de l'Empire Ottoman*, 2 vols. (Vienne-Leipzig: C.W. Stern, 1908-1912). His book was originally printed in French in 1908. Heidborn was the author that Lybyer mentioned the most in his book *The Government*. Has also mentioned Heidborn on the *Multaqā*: see Has, "A Study of Ibrāhīm al-Ḥalabī," 302. Since these authors did not differ significantly in their representation of the *Multaqā* as the "code of the empire," I do not see the need to include the works of additional authors. However, Heidborn's representation of the *Multaqā* is more in the context of the book being a fiqh textbook than a code of law. In this regard, Heidborn, writing in French, is one of the authors who, after d'Ohsson, maintained the *Multaqā* representation as a fiqh textbook. I would also point out that, unlike other authors, Heidborn wrote about the *Multaqā* within the disciplinary context of the book and uses fiqh (he spells it as *fykykh*; see page 43) to describe the field, see page 89. Thus, Heidborn remained authentic to the term of his subjects in their original form. He used the term fiqh to describe the discipline in which the *Multaqā* was produced and gained its significance before it became a handbook for judges to use for state-related dispensing of justice. Rather than presenting the *Multaqā* within the context of its position in state judicial apparatuses, Heidborn described the position of the *Multaqā* in relation to other textbooks in the field of fiqh and saw it, as Has says, as a text of "medial position." He wrote, "We give preference to the treatise of Ibrāhīm al-Ḥalabī, known under the name of Multaqa ul-Ebhour, which holds a middle path between these two extremes and which forms, by virtue of its clearness and simplicity, the most widespread and the most highly esteemed treatise →

of the *Multaqā* toward the end of the eighteenth and in the early nineteenth century—and with space a consideration—it does not seem necessary to analyze each author who represented the *Multaqā* as the code of the empire. Suffice it to say that the idea of the *Multaqā* as the code of the Ottoman state persists within modern-day discourses. In a recent article, the great professor of law Hilmar Kruger, writing in 2012, describes the *Multaqā* as occupying the role of "Corpus Iuris der Osmanen"[156] until the *Majalla* was compiled as a code of the empire.

Conclusion

This article has shown that by the middle of the nineteenth century, two discursive representations of the *Multaqā* framed the book in stark contrast to one another. One maintained its authentic status as a fiqh textbook and represented the book as one of the significant and authoritative reference works within the discipline of fiqh. According to this view, the book was the product of the scholarly community of the Ottoman Islamic jurists who operated and produced intellectual legal products within the limits of the disciplinary tradition of fiqh in informal (non-governmental) and formal (official madrasas) settings. As such, the book operated as an authoritative text among several other fiqh texts that helped guide in teaching, learning, and practicing Islam in everyday Ottoman life for ordinary people and state officials. For this reason, the book contained the traditionally set topics that deal with issues ranging from ritual purification and prayers for the individual, which are categorized under *ʿibādāt,* to issues included under *muʿāmalāt* that deal with marriage and commercial contracts in civil life and the limits of taxation and judicial processes within the state apparatuses. Within this traditional frame, the *Multaqā* was a total book of *fiqh norms* for both the people and the state. It was not the only book that operated in this capacity within the Ottoman polity (state and society together), and it did not contain two fundamentally different sets of norms—one for the state and the other for individual religiosity. There were several other texts that gained equal significance and judicial authority. This way of understanding the *Multaqā* was common in premodern writings, and many Ottoman authors continued to maintain this position in the modern era, including Bursalı Mehmet Tahir, Şemseddin Sami, Ali, and Heidborn, who were mentioned previously.

in Turkey" (the translation is by Has, "A Study of Ibrāhīm al-Ḥalabī," 301). See Heidborn, *Manuel de Droit Public*, 54.

156 Hilmar Kruger, "Kodifikation islamischen Rechts in Istanbul und ihre Forgeltung in anderen Staaten," *Annales* 44, no. 61 (2012): 245-258.

The other representation of the *Multaqā* gradually emerged at the turn of the nineteenth century and deviated from the traditional discursive frame of the *Multaqā* as a fiqh textbook. Instead, this alternative frame understood the text as a code of the state. It is known in the social sciences that modern states emerged as entities with significantly different relations with individual subjects than early modern states.[157] Importantly, this change affected individuals in the field of law and their relationship with the state. We can see this most saliently with the emergence of the processes of the various legal codifications in modern times.[158] The notion of the modern state and its global variations operated as a new frame for understanding and approaching the law differently than premodern law. As this article has shown, in the field of Ottoman legal history, this led to the re-framing of the *Multaqā* as a code of the state—first by Western and later by native authors—and to the downplaying of its civil-religio-everyday formations. Those authors who wanted to present the Ottoman state to Western audiences as a matured modern state instrumentalized the reinvented notion of the *Multaqā* to show that the empire had a "consistent, all-embracing law code" that placed it on par with modern European states.[159] When we read the authors who argued that the Ottoman state was a law-binding modern state versus the authors who depicted the Ottoman state as being without a consistent notion of the "law of the land," we end up with an image of a state that was trying to

157 For a discussion and historical trace of this change, see references in footnote 6 above. Specifically for the impact of this change in the fields of law, see Michael E. Tigar, with the assistance of Madeleine R. Levy, *Law and the Rise of Capitalism,* New York: Monthly Review Press, 1977; Roberto Mangabeira Unger, *Law in Modern Society: Towards a Criticism of Social Theory* (New York: The Free Press, 1976).

158 Although the term codification contains some ambiguity, scholars in the social sciences generally agree that it was first used in its modern sense by Jeremy Bentham; see his *Papers Relative to Codification and Public Instruction* (London: J. M'Creery, 1817). For a historical study of the modes of codification, see Csaba Varga, *Codification as a Social-Historical Phenomenon* (Budapest: Szent Istvan Tarsulat, 2010); for an analysis of Ottoman codification in relation to modernity, see Avi Rubin, "Modernity as a Code: The Ottoman Empire and the Global Movement of Codification," *Journal of the Economic and Social History of the Orient,* 59/5 (2016), 828-856; for a history and analysis of the process of codification in the Ottoman state, see Erdem, "Fıkıh Tarihi;" Mehmet Âkif Aydın *Türk Hukuk Tarihi,* 15th ed. (Istanbul: Beta Yayınları, 2018); for the first modern codification of Islamic law, see *The Mejelle: Being the English Translation of Majallah el-Ahkam-i-Adliya and Complete Code on Islamic Civil Law,* trans. C. R. Tyser and Ismail Haqqi Effendi (Malaysia: The Other Press, 2001); for an analysis of the impact of Ottoman codification on re-framing the Ottoman state and its relations to its subjects, see Cengiz Kırlı, *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi* (Istanbul: Verita, 2015).

159 See Findley's observation in footnote 99 and the related passage.

mature and be at par with modern Western states but was unsuccessful. In these discourses, there was always a gap that needed to be bridged between the Western nations and the Ottoman state. This is another debate that needs further analysis and discussion. Already a large amount of literature has developed in this field, and my focus here is not on this issue per se. My point is to show that there was a shift in representations of the *Multaqā*, and this shift has a history. In other words, this second approach to the *Multaqā* emerged first concerning the emergence of the modern state, second within the atmosphere of Western domination, and third with the ensuing notion of Western moral superiorly over the non-West. Thus, this new notion of the *Multaqā* deviated from the traditional understanding of the book.

As mentioned above, the authors of the second view wrote about the *Multaqā* as an unchanging, immutable universal code of a sacred nature. These authors tended to view the *Multaqā* as a universal "code" to legitimize their position of Islamic legal production as static and frozen, usually from about the tenth century onward. Some authors, such as MacColl, went beyond describing the *Multaqā* as simply a legal code of the empire and argued that the *Multaqā* was a "sacred" code. According to MacColl, the sacred character or the *Multaqā* meant that it was impossible to make changes toward reforming the apparatuses of state in the empire as attempted under the Tanzimat regime. In a move typical of Western writers in the modern era, MacColl used an isolated text to represent the East. He used the textbook of the *Multaqā* in isolation, removing it from its dynamic place within the socio-religious frame of the larger production of Ottoman legal knowledge and culture. Furthermore, even at the textual level, the text of the *Multaqā* was not alone in forming an authoritative "canon" for Ottoman legal apparatuses within its religious—and therefore "sacred," if we accept MacColl's line of thinking—department (as distinct from "kanun").

In conclusion, this article reasserts that although the *Multaqā* was one of the most significant Hanafi textbooks in the empire, it was by no means the only text that served as a basis for religio-legal opinions. Additionally, it was not at all unquestionably "sacred" and dogmatic. Besides, in the process of re-producing legal knowledge in the empire, the authoritative norms of the *Multaqā* were contested and re-produced with significant variations within the genre of commentaries. These variations display the socio-religious, and perhaps even the politically based, dynamics of negotiation between "authoritative texts" and their representations in commentators' writings. As I have noted, many commentaries on the *Multaqā* were produced during 300 years of Ottoman legal production.

When we look at the other authoritative Hanafi textbooks in the Ottoman empire, we see that the Ottoman jurists who produced commentaries on the *Multaqā* also produced many commentaries on other fiqh textbooks.[160] This fact tells us that—when viewed within the frame of legal knowledge production in the Ottoman Empire—the *Multaqā* operated as a dynamic text, together with other fiqh texts, in the hands of the Ottoman jurists for their commentaries on law, society, and state. Thus, the intellectual reproduction of Ottoman legal knowledge continued in a traditional form, and the traditionally oriented jurists resisted seeing *Multaqā* as a frozen and uniform code of the state. We can say, therefore, that the modern representation of the *Multaqā* was a misrepresentation of a traditional text due to the influence of the notion of the modern state. Furthermore, when viewed from a broader historical perspective that accounts for fiqh's historical formation in the premodern era, we can see that Islamic jurists—whose communal identity was shaped by informal religio-intellectual-legal activities—opposed the state agents early on. As I mentioned above in footnote 5 regarding the *Muwaṭṭa*, these jurists did not want fiqh to be reduced to an instrument of the premodern state. In our time, with the impact of the modern conceptual re-shuffling of the relationship between state and law, it is clear that the majority of traditional Islamic jurists resisted similar attempts by modern authors to embed the *Multaqā* into the state apparatuses and to reduce it to a code of the state. Looking at the reception of and debate over Wael Hallaq's recent book on Islamic law in relation to the modern state,[161] we can see that the debate is still actively pursued within the circles of modern authors on Islamic law. Fiqh remains a dynamic field of religio-legal knowledge production, both in its conceptual and practical aspects, within the context of the modern nation-state and the larger social world. Although some may continue to view the *Multaqā* as a sacred and frozen code of law, it maintains its prominence within this field of knowledge production alongside other legal authoritative fiqh texts.

160 See for more details, Kopuz, "Reproduction of the Ottoman Legal Knowledge"

161 Hallaq, *The Impossible State*.

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Bibliography

Abou-El-Haj, Rifa'at Ali, *Formation of the Modern State: The Ottoman Empire, Sixteenth to Eighteenth Century*, Syracuse: New York, Syracuse University Press, 2005.

Abou-El-Haj, Rifa'at Ali, "Ottoman Vizier and Pasa Households, 1683-1703: A Preliminary Report," *Journal of the American Oriental Society,* 94 (1974): 438-447.

Akgündüz, Ahmet, "Dürerü'l-Hükkâm," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (TDVIA)*, X, 27-28.

Ali, Moulavi Cheragh, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire and Other Mohammadan States*, Bombay: Education Society Press, Byculla, 1883.

Arıkan, Zeki, "Ubicini, Jean-Henri Abdolonyme," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi*, XLII, 32-33.

Atçıl, Abdurrahman, *Scholars and Sultans in the Early Modern Ottoman Empire*, Cambridge: Cambridge University Press, 2018.

Aydın, Mehmet Âkif, *Türk Hukuk Tarihi,* Istanbul: Beta Yayınları, 2018.

Babinger, Franz, "Khosrew," *EI*^{2} (*Encyclopedia of Islam,* 2nd ed.)

al-Bāqānī, Nūr al-Dīn Maḥmūd b. Barakāt, *Majr al-anhur 'alā Multaqā al-abḥur*, Süleymaniye Library, MS Giresun Yazmaları 29.

Bentham, Jeremy, *Papers Relative to Codification and Public Instruction,* London: J. M'Creery, 1817.

Bilge, Mustafa, *İlk Osmanlı Medreseleri,* İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi, 1984.

Burak, Guy, *The Second Formation of Islamic Law: The Hanafi School in the Early Modern Ottoman Empire,* Cambridge: Cambridge University Press, 2015.

Carlyle, Edward Irving, "Thornton, Thomas (d. 1814)," *Dictionary of National Biography, 1885-1900*, 56.

Calder, Norman, "The *'Uqūd rasm al-muftī* of Ibn 'Abidīn," *Bulletin of the School of Oriental and African Studies,* 63/2 (2000): 215-228.

Coşkun, Vildan, "Gian Battista Toderini," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi,* XLI, 208-209.

Çakır, Coşkun, "Tanzimat," in Gabor Agoston and Bruce Masters, *Encyclopedia of the Ottoman Empire,* New York: Facts on File 2009.

Çelebī, Kātip, *Kashf al-ẓunūn fī asāmī al-kutub wa al-funūn,* ed. Şerefettin Yaltkaya, İstanbul: Maarif Matbaası, 1943.

Çelebī, Kātip, *Mizān al-ḥaq fī ikhtiyār al-aḥaqq* (Eng. trn.: G. L. Lewis, *The Balance of the Truth*), London: George Allen and Unwin, 1957.

Davison, Roderic. H., *Reform in the Ottoman Empire: 1856-1876,* Princeton: Princeton University Press, 1963.

Davison, Roderic. H., "Tanzimat," *EI*^{2} (*Encyclopedia of Islam,* 2nd ed.)

Deans, William, *History of the Ottoman Empire, from the Earliest Period to the Present Time,* London: A Fullarton & co., 1854.

Donoghue, Mark, "William Thomas Thornton's Family, Ancestry, and Early Years: Some Findings from Recently Discovered Manuscript and Letters," *History of Political Economy* 40, no. 3 (2008): 511-550.

Dutton, Yassin, *The Origin of Islamic Law: The Quran, The Muwaṭṭa and Madinan 'Amal,* New Delhi: Lawman Private Limited, 2000.

Erdem, Sami, "Fıkıh Tarihi: Osmanlı Hukuk Düşüncesinde Modern Yorumlar İçin Yeni Bir Referans Çerçevesi," *Türkiye Araştırmaları Literatür Dergisi,* 3/5 (2000): 85-105.

Farley, James Lewis, *Turks and Christians: A Solution of the Eastern Question,* London: Simpkin, Marshall & Co. Publishers, 1876.

Findley, Carter Vaughn, *Presenting the Ottomans to Europe: Mouradgea d'Ohsson and His Tableau general de l'empire othoman,* Stockholm: Swedish Research Institute in Istanbul, 2003.

al-Ghazzī, Najm al-Dīn, *al-Kawākib al-sā'ira bi 'a'yān al-mi'a al-'āshira,* 3 vols., ed. Jibrā'il Jabbūr, Beirut: American Press, 1945.

Gerber, Haim, *State Society and Law in Islam: Ottoman Law in Comparative Perspective,* New York: State University of New York Press, 1994.

Gill, Graeme, *The Nature, and Development of the Modern State,* New York: Palgrave Macmillan, 2003.

Gilliot, Claude, "Sharh," *EI*[2] (*Encyclopedia of Islam,* 2nd ed.).

Gökçen, Mahmud Adnan, "G. Toderini'nin *Letteratura turchesca* Unvanlı Eserinin *De la Littérature des turcs* Başlıklı Fransızca (A. de Cournand) Tercümesinden Türkçe'ye Yapılan Çeviri Üzerine Bir Eleştiri," *Osmanlı Araştırmaları/The Journal of Ottoman Studies*, 41 (2013): 383-398.

al-Ḥalabī, Muḥammad b. Ibrahīm, *Multaqā al-abḥur,* ed. Wahbī Sulaymān Ghawajī al-Albānī, Beirut: Mu'assasat al-Risāla, 1989.

Hall, John A. and G. John Ilkenberry, *The State,* Milton Keynes, Open University Press, 1989.

Hallaq, Wael B., *The Impossible State, Islam, Politics and Modernity's Moral Predicament,* New York: Columbia University Press, 2012.

Von Hammer, Joseph, *Des Osmanischen Reichs Staatsverfassung und Staatsverwaltung*, Vienna, 1815.

Has, Şükrü Selim, "A Study of Ibrāhīm al-Ḥalabī With Special Reference to the Multaqā," PhD diss., University of Edinburgh, 1981.

Has, Şükrü Selim, "The Use of Multaqā al-Abḥur in the Ottoman Madrasas and in Legal Scholarship," *The Journal of Ottoman Studies* VII-VIII (1988): 393-418.

Has, Şükrü Selim, "Halebî, İbrâhim b. Muhammed," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi*, XV, 231-232.

Has, Şükrü Selim, "Mülteka'l-Ebhur," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi,* XXXI, 548-551.

Heidborn, A., *Manuel de Droit Public et Administratif de l'Empire Ottoman*, 2 vols., Vienne-Leipzig: C.W. Stern, 1908-1912.

Humphreys, Stephen, *Between Memory and Desire: The Middle East in a Troubled Age*, Berkley: University of California Press, 1999.

Hüsrev, Molla, *Durar al-ḥukkām fī sharḥ Ghurar al-aḥkām,* 2 vols., Istanbul: Matbaa-i Mehmed Es'ad, 1299 [1881/1882].

Ibn 'Ābidīn, *Sharḥ 'Uqūd rasm al-muftī*, contained in his *Rasā'il*, p. 1:10-52 (custom print), p. 36-37.

Ibn al-Ḥanbalī, Raḍī al-Dīn Muḥammad, *Durr al-ḥabab fi tārīkh a'yān al-Ḥalab*, eds. Maḥmūd Aḥmad al-Fākhūrī and Yaḥyā Zakariyyā 'Abbara, Damascus: Wizārat al-Thaqāfa, 1972.

Ibn al-'Imād, 'Abd al-Ḥayy al-Ḥanbalī, *Shadharāt al-dhahab fī akhbār man dhahab*, 8 vols., eds. 'Abd al-Qādir al-Arnawūt and Maḥmūd al-Arnawūt, Beirut: Dār Ibn al-Kathīr, 1986.

Ibn Sa'd, *al-Ṭabaqāt al-kubrā li-Ibn Sa'd: Qism mutammim,* ed. Ziyād Muḥammad Mansūr, Madina: Maktabat al-'Ulum wa al-Ḥikam, 1987.

Imber, Colin, *Ebu's-Su'ud: The Islamic Legal Tradition,* Stanford: Stanford University Press, 1997.

Jackson, Sherman A., *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din Al-Qarafi,* Leiden: Brill Academic Publishing, 1996.

Karaaslan, Nasuhi Ünal, *XVII Asrın Ortalarına Kadar Türkiye'de İlim ve İlmiyeye Dair Bir Eser: Kevakib-i Seba Risalesi*, Ankara: Türk Tarih Kurumu, 2015.

Kaya, Eyyüp Said, "Nevazil Literatürünün Doğuşu ve Ebu'l-Leys es-Semerkandî'nin Kitabu'n-Nevazil'i," MA Thesis, Marmara Üniversitesi Sosyal Bilimler Enstitüsü, 2001.

Kaya, Eyyüp Said, "Şerh," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi,* XXXVIII, 560-564.

Kaya, Eyyüp Said, "Muhtasar," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi,* XXXI, 61-62.

Khan, Aamir Shahzada, "*Multaqa al-Abhur* of Ibrahim al-Halabi (d. 1549): A Hanafi Legal Text in Its Sixteenth-Century Ottoman Context," M.A. thesis, Central European University, Budapest, 2014.

Kırlı, Cengiz, *Yolsuzluğun İcadı: 1840 Ceza Kanunu, İktidar ve Bürokrasi,* Istanbul: Verita, 2015.

Koca, Ferhat, *Molla Hüsrev,* İstanbul: Diyanet Vakfı Yayınları, 2008.

Kopuz, Kasım, "Reproduction of the Ottoman Legal Knowledge: The Case of Ibrahim Al-Ḥalabī's *Multaqa al-abḥur* and Defining the Concept of *Baghy* in Commentarial Writings on it (16th To 18th Centuries)," PhD diss., Binghamton University (SUNY), 2019.

Kruger, Hilmar, "Kodifikation islamischen Rechts in Istanbul und ihre Forgeltung in anderen Staaten," *Annales* 44/61 (2012): 245-258.

al-Laknawī, 'Abd al-Ḥayy al-Hindī, *al-Nāfi' al-kabīr li-man yuṭali' al-Jāmi' al-saghīr*, printed with *al-Jāmi' al-kabīr* by Muḥammad al-Shaybānī, Beirut: 'Ālam al-Kutub, 1986.

Larpent, George, *Turkey; Its History and Progress*: *From the Journals and Correspondence of Sir James Porter, fifteen years Ambassador at Constantinople; Continued to the Present Time with A Memoir of Sir James Porter, by His Grandson Sir George Larpent*, 2 vols., London: Hurst and Blackett Publishers, 1854.

Lybyer, Albert Howe, *The Government of the Ottoman Empire in the Time of Suleiman the Magnificent*, Cambridge: Harvard University Press, 1913.

MacColl, Malcolm, "Some Current Fallacies About Turks, Bulgarians, and Russians," *The Nineteenth Century: A Monthly Review,* 2 (London, August-December 1877): 831-842.

d'Ohsson, Ignatius Mouradgea, *Tableau Général de l'Empire Othoman, divisé en deux parties, dont l'une comprend la législation mahométane; l'autre, l'histoire de l'Empire othoman,* 7 vols., Paris: Imprimerie De Monsieur, 1-6 vols., 1788 and Paris: Firmin Didot Freres Editeurs, 7th vol., 1824. English translation, *Oriental Antiquities, and General View of the Ottoman Customs, Laws, and Ceremonies: Exhibiting many Curious Pieces of the Eastern Hemisphere, Relative to Christian and Jews Dispensation.* Translator is not known, Philadelphia: Printed for the Select Committee and Grand Lodge of Enquiry, 1788, reprinted by ECCO, Eighteenth Century Collections, LaVergne, Tennessee, 2011.

Orazov, Orazsahet, "Muhtasar Metinlerin Hanefi Literatürü İçindeki Yeri," *BEÜ İlahiyat Fakültesi Dergisi,* 5/1 (2018): 107-122

Özel, Ahmet, *Hanefi Fıkıh Alimleri*, İstanbul: Diyanet Vakfı Yayınları, 2013.

Poggi, Gianfranco, *The Development of the Modern State: A Sociological Introduction,* Stanford: Stanford University Press, 1978.

Poggi, Gianfranco, *The State: Its Nature, Development and Prospect,* Stanford: Stanford University Press, 1990.

Porter, Sir James, *Observations on the Religion, Law, Government, and Manners of the Turks*, 2 vols., Dublin: P. Wilson, and others, 1768.

Ricaut, Sir Paul, *The History of The Present State of the Ottoman Empire*, 3rd ed. London: Charles Brome, 1686.

Rubin, Avi, "Modernity as a Code: The Ottoman Empire and the Global Movement of Codification," *Journal of the Economic and Social History of the Orient,* 59/5 (2016), 828-856.

Sami, Şemseddin, *Qāmūs al-aʿlam*, 5 vols., Istanbul: Mehran Matbaası, 1889.

al-Ṭabbākh, Muḥammad Rāghib, *Iʿlām al-nubalāʾ bi-tarīkh Ḥalab al-shahbā*, 7 vols., Aleppo: Dār al-Qalam al-ʿArabī, 1988.

Tahir, Bursalı Mehmed, *Osmanlı Müellifleri*, 3 vols., İstanbul: Matbaa-i Amire, 1915.

Taşköprizade, Ahmed, *al-Shaqāʾiq al-nuʿmāniyya fī ʿulamāʾ al-dawla al-ʿUthmāniyya*, ed. Ahmed Subhi Furat, İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, 1985.

Tigar, Michael E., with the assistance of Madeleine R. Levy, *Law and the Rise of Capitalism*. New York: Monthly Review Press, 1977.

Thornton, Thomas, *The Present State of Turkey; or A Description of the Political, Civil, And Religious Constitution, Government, And Laws of the Ottoman Empire,* London: Printed for Joseph Mawman, 1807.

Toderini, Giambatista, *Letteratura turchesca,* 3 vols., Venezia, 1787 (French, *De la Litterature des turcs* tr. into French by A. de Cournand, 2 vols., Paris: Chez Poincot, Libraire, 1789).

Tyser, C. R. and Ismail Haqqi Effendi, trans. *The Mejelle: Being the English Translation of Majallah el-Aḥkām-i-ʿAdliya and Complete Code on Islamic Civil Law*, Malaysia: The Other Press, 2001,

Ubicini, Jean-Henri-Abdolonyme Ubicini, *Letters on Turkey: An Account of the Religious, Political, Social and Commercial Condition of the Ottoman Empire* (Tr. from French by Lady Easthope), London: John Murray, Albemarle Street, 1856.

Uzunçarşılı, İsmail Hakkı, *Osmanlı Devleti İlmiye Teşkilâtı*, Ankara: Türk Tarih Kurumu, 1984.

Varga, Csaba, *Codification as a Social-Historical Phenomenon,* Budapest: Szent Istvan Tarsulat, 2010.

Wensinck, Arent Jan, "Matn," *EI*^{2} (*Encyclopedia of Islam,* 2nd ed.).

al-Zarqāʾ, Muṣṭafā Aḥmad, *al-Fiqh al-Islāmī fī thawbihī al-jadīd: al-Madkhal al-fiqhī al-ʿām*, 3 vols., Damascus: University of Damascus Press, 1961.