

## Tanzimat: A Brief outlook of Secular reforms in the Ottoman Empire

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### ABSTRACT

*Sultan Mehmud's reign ended with the beginning of the Tanzimat Era which was the second phase of Ottoman reforms. Tanzimat (Regulation) is the name given to the programmes of reform that were inaugurated in November 1839. The term Tanzimat is derived from the root meaning 'order'. Tanzimatists wanted to recreate the state and to amalgamate East and West. Their aim was, first of all, to create a modern national army, then to use it to restore the power of central government over the provinces and to create a new frame of work of centralized administrative and secular laws. This paper aims to refute this misleading historical narrative by showing that, rather than implementing Shariah, the Ottoman Sultans were actually attempting to secularise their laws and state institutions. Secular reforms in the Ottoman Empire can be traced back to the 17th century. However, this paper focuses on the period of reformation better known as the Tanzimat (1839-1876). During this period customary and religious laws were either abolished or repealed in favour of secular European ones. This was done on the orders of the Sultan/Caliph himself and with the approval of the religious authorities. During this reform period, the Ottoman Sultans attempted to integrate non-Muslim communities and these communities were given equal rights and privilege.*

### KEYWORDS

Secular reforms, Ottoman Empire, Regulation

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### INTRODUCTION.

The Ottoman Empire was one of the longest lasting empires in history. The Ottomans ruled their subjects through the Millet (communities) system in which each community had its own autonomous courts and could legislate according to its own religious laws. They also appreciated religious diversity and tolerated the existence of multiple faith communities. This is the reason that ten million Turks were able to rule over 250 million people of three continents.<sup>1</sup>

During the 16th century, Under Sultan Selim I and Sultan Suleyman the great, the Ottoman Empire was at its peak as a world super power, but by the mid-18th Century it had considerably weakened. Due to the continuous losses in the battlefield, its territories began to shrink. Internal and external revolts became commonplace that made the empire's collapse seemed imminent. These realities compelled the reformist Sultans and influential thinkers to look for new solutions to stop the disintegration of the empire. The first Sultan to recognise the serious decline of the Empire was Selim III (1789-1807) who introduced western reforms by initiating changes in education, legal and military systems. These reforms were not welcomed by the Janissaries as well as by the Ulama. When Selim III organised an infantry force, Nizam-i Cedit (New Order) on western pattern, 'it aroused bitter opposition among the Janissaries who saw this new army as a threat to their existence'.<sup>2</sup>

All these reforms coming from the west were opposed by the Janissaries and the ulama who eventually declared the European-inspired reforms to be bidah. With the backing of the Shaykh ul Islam, they revolted against Sultan Selim III and they got success in deposing Selim III and replacing him with his brother Mustafa (1807-08). A year later, after a bloody struggle, Mustafa was removed by supporters of Selim III and replaced by his nephew Mahmud II (1808-39). Mahmud II was determined to modernise the empire by adopting European laws over the traditional Ottoman ones (*Kanun-i Osmani*) which at the time combined religious, customary and secular law through imperial decrees.

Sultan Mahmud's first aim to remove the ineffective Janissaries and replace them with a modern army trained along European lines. He spent the next decade building a new armed force and placing his nominees in key positions of power amongst the Janissaries.<sup>3</sup>

As expected, the Janissaries refused to obey and revolted. The Sultan's new army, equipped with modern rifles, gunned down the Janissaries. The Janissaries were completely destroyed, and by Saturday 18th June 1826 'the Janissaries corps was finally abolished'.<sup>4</sup> Sultan Mahmud did not live to see all his reforms implemented, as he died in 1839, but his son Sultan Abdul Majid, who succeeded him, continued with them at a greater pace.

This period of weakness and internal conflict provided a chance to the European states to interfere in the internal matters of the Ottomans. So they began to pressurise the Ottoman Sultans to give their non-Muslim subjects equal legal status. From the very beginning of the nineteenth century to its end, European diplomatic pressure played a major role in the westernizing measures adopted by the Ottomans. The imperial rescript *Hatti Serif* of 1839 and *Hatti Humayun* of 1856 and the first constitution of 1876 were also promulgated under such pressures.<sup>5</sup>

**The Gulhane Decree (*Hatt-i Sharif*) of 1839**, The guiding genius of the early *Tanzimat* was Mehmud's foreign minister, Mustafa Resit Pasha<sup>6</sup> (1846 – 1858), a Westernized Turkish diplomat and grand *Veizir*, who happened to be in London seeking British aid against Mehmet Ali<sup>7</sup> (1805 -48) at the time Abdul Mecit I (1839 -161) took over.<sup>8</sup> Advised by the British and the Grand *Veizir*, Rasit Pasa, the new Sultan, Sultan Abdulmecit I, shortly after his succession on 3rd November 1839, had issued a proclamation called "The Noble Rescript of the Rose chamber" (*Hatt-i-Serif of Gulhane*)<sup>9</sup> often called by Turks the *Tanzimat Fermansi*, in which for the first time equality among the Ottoman subjects was declared to be the official policy in these words: "these imperial concessions are extended to all our subjects of whatever religion or sect they may be"<sup>10</sup>

The Gulhane decree (*Hatt-i Serif*) made the following promises:

1. There should be security of life, honour, and property,
2. All classes of people to be treated alike,
3. Trials to be public no-one to be put to death except after a regular sentence and all confiscation abolished,
4. A system of collecting fixed taxes should replace tax-farming,
5. Military conscription should be regularized and the term of service reduced from lifetime to four or five years.
6. The most striking promise was that the reforms would apply without exception to "the people of Islam and other peoples among the subjects of our imperial Sultan".<sup>11</sup>

The *Hatt-i Serif* was more important since through it for the first time non-Muslim millet<sup>12</sup> were enlisted in military services and provincial *Meclis* or Council of the Governor were also represented by them.<sup>13</sup>

The Gulhane decree, whilst acknowledging Islamic principles, paved the way for the introduction of new laws in the coming years. For example, a French based provincial administration was introduced to replace the old pattern. In 1840 *Kanun-i Ceraim*, a new penal code was put into effect. It was influenced by French Law, although it remained within the framework of the *Seriat*. In 1841 a Commercial Code based on the French was also introduced to the Council of Justice<sup>14</sup> and in 1844, the death penalty for apostasy from Islam was abolished<sup>15</sup>.

In general, Ottoman society had already moved away from punishments such as stoning for Adultery: Throughout Ottoman history only one case of rajm (stoning) was decided and carried out (in 1680). This happened in a period of extreme religious fanaticism, and it encountered such opposition that it was not repeated.<sup>16</sup>

The *Ulema* vehemently opposed the legal reform considering it as an encroachment upon the jurisdiction of *Seriat*. Under the pressure of the *Ulema*,<sup>17</sup> Sultan Abdul Mecit had to dismiss Mustafa Resit Pasa. The reforms were interrupted from 1841 to 1846, when Resit Pasa returned as Minister of Foreign Affairs. He was appointed Prime Minister in 1846. Although Abdul Mecit I (1839-1861) was rather in favour of the *Tanzimat* but religious opposition compelled him to dismiss Mustafa Resit Pasa in order to introduce mixed Civil Code and Criminal Courts in 1847 and Commercial Code in 1850.<sup>18</sup>

The Gulhane decree was one of the most important documents in Ottoman history, mainly because it initiated a period where the state would endeavour to implement a whole series of modernising reforms (i.e. moving from religious to secular laws).

### **The Imperial Rescript (*Hatt-i Humayun*) 1856**

There were also periods when foreign intervention called for new efforts in which Allied Powers wanted to bind the Sultan with an international agreement to carry out the reforms.<sup>19</sup> For this purpose Turkey's allies met in Paris Peace Conference. All the signatories of the Treaty of Paris assumed an obligation to protect the Sultan's Christian subjects and to what extent the Porte was placed under the tutelage of the European powers whose main purpose was to Christianize the Turks.<sup>20</sup>

This was another step in further reforming the existing laws of the Ottoman Empire. This edict was also supported by European states, who felt that the previous proclamation had not gone far enough in providing equal rights to the non-Muslim subjects of the empire.<sup>21</sup>

To save the Ottoman independence, in this situation, after the Crimean War, the Sultan issued another new Decree, which is known as *Hatt-i Humayun*<sup>22</sup> (Noble Script) of February 18, 1856.<sup>23</sup>

In the preparation of this noble script Ali Pasha,<sup>24</sup> and Fuat pasha<sup>25</sup> played a leading role. This Noble Script reaffirmed the promises that Sultan had already made in *Hatt-i Serif* of 1839.<sup>26</sup> It went even farther by assuring non-Muslims religious liberty and full equality in the administration of justice, taxation, public employment and military services as well as admission to the civil and military schools.<sup>27</sup>

On stressing the importance of the education Council of Public Instruction was formed by the Sultan. For this purpose *Rusdiye* (secondary) schools were established in various parts of the Empire.<sup>28</sup> Although the Sultan was much aware of the importance of the religious education but he wanted to keep them outside the influence and approach of the *Ulema*. So he was interested mainly in the establishment of new secular schools.<sup>29</sup>

The Imperial Rescript (*Hatt-i Humayun*) also elevated the role of non-Muslims from *Dhimmi* status by abolishing the *Jizya* (head tax paid by non-Muslim subjects of the Empire):

The *bedel-i askeri* essentially replaced the *jizya* (head tax) traditionally paid by non-Muslims, which was abolished with the 1856 *Hatt-i Hümayun* declaration that all subjects of the Ottoman Empire were equal and therefore obligated to serve in the military.<sup>30</sup>

In the *Tanzimat* period, the Ottomans also adopted: ‘...the Napoleonic Trade Laws in 1850, the French Penal Code in 1858, the Property Law also in 1858 and the Maritime Trade Law in 1864.’<sup>31</sup> Homosexuality was decriminalised in 1858. Although there were still Shariah courts in the empire, these were not the only legal institutions of the period:

Sharia courts had primary jurisdiction over urban Muslims, rural tribes followed customary rules and procedures (*urf*), and *Milliya* courts were regulated by and for the various sects of Christians and Jews. Hence Sharia courts were by no means the only form of law and administration. Indeed the ruler had his own body of administration law (*Qanun*) that did not draw authority from the Sharia.<sup>32</sup>

The 19th century saw the establishment of secular *Nizamiye* courts across the empire. These courts were created by the Ottoman Sultans to apply the new secular laws. Attempts to codify *Shariah* were also made in the late nineteenth century. This resulted in the ‘*Mejelle*’, codified law based on *Hanafi fiqh*. However, the *Mejelle* covered only a small part of the Shari’a law - mainly contracts, hire, surety, obligations and trust, agencies as well as testimony and evidence: that is mainly economic and procedural matters. It did not cover family law, where traditional Shari’a was dominant nor criminal law, which was already codified on a European-inspired basis.<sup>33</sup>

This gave a great shock to the Muslim population of Turkey. Cevdat Pasa,<sup>34</sup> portrayed the popular Muslim feeling against the reforms. He said, it was a great day of mourning for the Muslims of Turkey as they had lost their rights, which their forefathers had won with their blood.<sup>35</sup>

**Conclusion:** On the whole the *Tanzimat* were carried out in an uncertain and troubled atmosphere in which Grand Vezir, and Resit Pasa, by drawing up the characters had served dual purpose for satisfying the European powers whose intervention had become more and more serious in the domestic affairs and to restore confidence in the home government. To carry out these reforms which were revolutionary for the Ottoman Empire, Resit Pasa believed that only liberal reforms would save the Ottoman Empire.

These reforms and pronouncement contained in itself weaknesses and contradictions which were to carry disintegration to its logical end. During the *Tanzimat Era* two ideas, democracy and nationalism emerged. The reformists took up democracy but nationalism was highlighted throughout the country among the non-Muslim millet through Western Powers. *Tanzimat* reforms ignored the rising tide of Nationalism among the non-Muslims and failed to appreciate the effects of reforms based on the millet system. These reforms and pronouncements could not stop the disintegration of the Ottoman Empire.

#### REFERENCES

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2. Ishtiaq Hussain, “The Tanzimat: The Secular Reforms in the Ottoman Empire”, p.5
3. *Ibid.* p. 6,
4. *Ibid.*, p. 7
5. Aijaz Ahmed, *Islam in Modern Turkey (1938-19820)*, (Aligarh, 2009), pp. 7-8
6. Mustafa Resit Pasa (1846-1858) was born in 1800 A.D. in Istanbul. He was well read and farsighted statesman. He had served as Ottoman Ambassador to Paris as well as Grand Vezir no less than six times between 1846 and 1858. He was anxious to save his country from what had overtaken the French monarchy. He knew French very well and was quite familiar with European politics.
7. Mehmet Ali (1805-48) was the most famous modernizer of the nineteenth century in Middle Eastern history. He had invited French advisor to modernize his army. He was known as the leader of Albanian and Bosnian soldiers. He remained an Ottoman Governor of Egypt from 1805-1848 and was the founder of the dynasty that was to rule the country for over a century until 1952-53. In 1952 Gamal Abdul Nasser and the Free Officers deposed King Faruq and his infant son Ahmad al-Faruq II and the following year established a republic. For their genealogy and dates of their reign See Donald Malcom Reid, “Muhammad Ali Dynasty”, In *The Oxford Encyclopaedia of the Modern Islamic World* by John Esposito, New York, 1995, pp166-67; L. Hoskins Halford, “Some Recent Work on Muhammad Ali and Modern Egypt”. *American Historical Journal*, March, 1932, pp.52-103; Ehud r. Toledano, “Muhammad Ali Pasha”, *Encyclopaedia of Islam*, new edition, Leiden, 1960 vol 7. pp. 423-431;

Vatikiotis, P. J. *The History of Modern Egypt: From Muhammad Ali to Mubarak*, 4<sup>th</sup> edition, Baltimore, 1999 and also see, J. H. Kramers, "Muhammad Ali Pasha", EI Vol. VI, pp.681-684.

- <sup>8</sup>. This New Sultan at the age of 16 was determined to continued his father's work and was supported in this by his mother, the *Valide Sultan Bazm-i Alem*, a remarkable woman who exercised considerable influence over her son and consequently over the government of the Empire. Bernard Lewis, *The Emergence of Modern Turkey*, p.104.
- <sup>9</sup>. This edict was Resit Pasa's creation and was publicly read by him in open space of *Gulhane* along the Topkapi palace wall, the Sultan being present. This *Khatt* (Hatt) built on the innovation of Mehmut II in the later years of whose reign the term *Tanzimati Hayriyye* (Beneficent Orderings) had already designated administrative changes. For more detail see Goldschmit Jr. Arthur, *A concise History of the Middle East* (London, 1988), p.165; K.H. Karpat, *Turkey's Politics*. P.10; Barnard Lewis, *op. cit.*, pp.104-105; R. H. Davison, "Tanzimat" in the *Encyclopaedia of Islam* New edition, vol. X, (Leiden, 2000), pp.201-203; Cengiz Orhanlu, "Khatt-i-Humayun and Khatt-i Sherif." Vol. IV, p. 1131.
- <sup>10</sup>. R. H. Davison, *Reform in the Ottoman Empire* (New Jersey, 1963), p.37 and *Turkey*. P.78.
- <sup>11</sup>. R. H. Davison "Tanzimat", *op.cit.*, p.201; H. Scheel, "The Ottoman History from 1774-1918". In *Neuzeit the Fgeschichtedet Islamischen Lander*, part III tr. And ed., F.R.C. Begley (Leiden, 1959) pp.12-13. Mezheruddin Siddiqui, *Development of Islamic State and Society* (Islamabad, 1956), pp.24 and Bernard Lewis, *op.cit.*, pp.105-107 and see also Alan Palmer, *The Decline and fall of the Ottoman Empire* (London: John Murray Publishers Ltd, 1995), p. 91
- <sup>12</sup>. Jews, Christians, Armenians, Albanians and Greeks were included in non-Muslim millets. They were given more rights to encompass all segments of the society. Millet was replaced by *Osmanlilik* (Ottomanism).
- <sup>13</sup> R. H. Davison, *op.cit.*, p.44.
- <sup>14</sup>. In 1854 the council of Justice was split into two bodies. Henceforward the Council of Justice was to deal strictly with legal matters. While another body known as *Meclis-i Tanzimat* (The High Council of Reforms) was entrusted with the responsibility for implementing the reforms program. It was this council which played the leading role during the *Tanzimat* period. But again in 1868 this High council was split into two bodies *Divan-i Ahkam-i Adliye* for quasi-legislative and judicial function and *Surayyi Davlet* for administrative matter formed on the line of French Conseil, d'tat. See b. Lewis, *op.cit.*, p.107-108, 114, 119 and Serif Mardin "Some Explanatory Notes on the Origins of the "Mecelle", *The Muslim World* vol. 51, 1961, No.4, pp.274-279.
- <sup>15</sup>. Elie Elhadj, *The Islamic Shield: Arab Resistance to Democratic and Religious Reforms* (USA: Brown Walker Press Florida, 2007), p. 49
- <sup>16</sup>. Ilber Ortayli, *Ottoman Studies* (Istanbul: Bilgi University Press, Second Edition, 2007), p164
- <sup>17</sup>. By the eighteenth century, the *Ulmea* had reached the apes of their wealth, privilege and political power. They constituted the hereditary aristocracy in the great 'mollaship; known as 'the *Mavalizadeler*' the Ottoman history. They participated in political maneuvers in the Empire. Their "Oath of allegiance" (*Bayah*) confirmed the sovereignty of each new Sultan. Any opposition group, who wanted to remove some political figure including Sultans from their posts, had to co-operate with these *Ulema* and justify their action. See. Seyfettin Ersahin, "The Ottoman Ulema and the Reforms of Mehmut II, *Hamdard Islamicus*, Vol. XXII, No. 2, p.20.
- <sup>18</sup>. B. Lewis, *op.cit.*, pp. 105-116.
- <sup>19</sup>. Mazheruddin Siddiqui, *op.cit.*, p.243.
- <sup>20</sup>. For details see, H. W. V. Temporally (ed.), *A History of the Peace Conference of Paris*, vol. VI, (London, 1924), pp.1-80.
- <sup>21</sup>. Ishtiaq Hussain, *op.cit.*, p. 9
- <sup>22</sup>. This Noble Rescript of 1856 was a result of European interference in the internal affairs of Ottoman Empire. The Sultan's government tried to convince the European Powers of its sincerity in implementing reforms and ensuring full equal rights to non-Muslims. It marks the real beginning of Westernization in the History of Turkey, not only in technical and administrative

matters, but in the cultural field as well. For detail of *Hatt-i Humayun*, See, R.H. Davison, “Tanzimat”, *op.cit.*, pp. 103-105 and Cengiz Orhonlu, “Khatt-i Humayun and Khatt-i Sherif” *Encyclopaedia of Islam*, Vol. IV, p.1131. Serif Mardin, “Tanzimat”, *The Oxford Encyclopedia of the Modern Islamic World*, Vol. 4, Oxford, 1995, pp.183-86.

<sup>23</sup>. H. Scheel, *op.cit.*, p.15.

<sup>24</sup>. Ali Pasa’s full name was Mehmet Emin Ali Pasa (1815-1871), son of an Istanbul shopkeeper. He started his education as a *medrese* student. He transferred into the newly developed scribal service of the Porte on September 1, 1830. He learned French in the translation office and rose in its service, going as a junior office clerk on missions to Vienna (1835-1836). He was Resit’s personal scribe and translator during the later embassy to London. He served as ambassador to London from 1841 to 1844, and foreign minister two times (1846-48) and (1848-52). He remained as a member of the principal legislative body of that time and supreme Council of Judicial Ordinances, *Meclisi Vala-yi ahkam-i Adliye*. For the best study on the life and achievements of Ali Pasa. See, H. Bowen, “Ali Pasa Muhammad Amin”, *The Encyclopaedia of Islam*, Vol. I (London, 1960), pp.396-398 and Bernard Lewis, *op.cit.*, p.115.

<sup>25</sup>. Fuat Pasa, Kececizade Mehmet Fuat pasa, (1815-1869) was from an *Ulema* family and received *medresa* education. With his family support he studied in Medical School (*Tibhane-i-Amire*). He knew French and became the Scriber to Tahir Pasa, the then governor of Tunis from 1832 to 1836. Fuat Pasa entered his service only in 1837. He rose to become first translator of the Porte. He also served as a Foreign Minister five times and twice Grand Vizier, for more detail about his life and achievement, See, R.H. Davison, “Fuad Pasha” *The Encyclopaedia of Islam* New Edition, vol. II, pp.934-936. And R.H. Davison, *Reforms in The Ottoman Empire 1856-1876*, chap. 3 and index; R.H. Davison, the “Question of Fuad Pasha’s Political Testament” *Bellesten XXIII/89*, 1959, pp.119-136; T.W. Reiker, *The Making of Rumania*, (London, 1931), pp.55-59, 75, 155-180 and index; Harold Temperley. *England and the Near East* (London, 1936), pp.262, 267-68, 306-310 and Bernard Lewis, *the Emergence of Modern Turkey*, pp.115-21.

<sup>26</sup>. H. Scheel, *op.cit.*, p.15.

<sup>27</sup>. Through this rescript *Jizya*, levied on non-Muslims for their protection and *bedel*, exemption tax charged from non-Muslim for their exemption from military service was abolished in 1855. See Alford Bon, *State and Economy in Middle East* (London, 1955), p.13.

<sup>28</sup>. He word “*rusdiye*” derived from *rusd* which means adolescence. The first *Rusdiye* School had been opened in Istanbul in 1847. From 1875 separate military *rusdiye* schools were established to prepare for admission to military high school and colleges. Under Abdul Hamit *rusdiye* school were set up in the centers of all the 29 *vilayets* and 6 independent *mutasarrikliks* of the Empire as well as many *Kaza* centers in Turkey proper. For detail see, Bernard Lewis, *op.cit.*, p.83, 112 and 178.

<sup>29</sup>. The included the Schools of Finance (1878); Law(1878), Fine Arts (1879), commerce (1882) , Civil Engineering (1884), Veterinary Science (1889 (1889), Police(1891), customs (1892) and improved new Medical School (1898), Bernard Lewis, *op.cit.*, p.177.

<sup>30</sup>. R. H. Davison, *Reform in the Ottoman Empire 1856 - 1876* , p. 116

<sup>31</sup>.. Hans-Lucas Kaiser and Walter Stoffel, *Revolution of Islamic Law. Eighty years of the Swiss Civil Code in Turkey* (Berlin: Tagungsbericht University of Fribourg, 2006), p. 1

<sup>32</sup>. Talal Asad, *Formation of the Secular: Christianity, Islam, Modernity* (Stanford University Press, 2003), p. 210. Cf. Ishtiaq Hussain. *Op. cit.*, p. 10

<sup>33</sup>. *Ibid.*,

<sup>34</sup>. Cevdet Pasa (1822-1895), a famous historian as well as educationist and Jurist was appointed head of *Divan-i Ahkam-i Adliya*, a post equivalent to the Ministry of Justice. He had served as Minister of Justice and he presided over the *Mecelle* Committee which drafted the new civil code *Mecelle-i-Ahkam-i-Adliye* based on Hanafi law. It became the landmark in the history of Islamic Jurisprudence in 1876. It remained effective until its abolition in 1926 by Mustafa Kemal Ataturk. Cevdet Pasa called the Westernizers *mutefermicin* (Europeanizer). See for detail, Serif Mardin, “The Origin of the Mecelle” *The Muslim World*,

Vol. 51, No.3-4, October 1961, pp. 189-196, 274-279. For the detail about his life and works as well as achievements. See. H. Bowen, "Ahmad Djavid Pasha", *The Encyclopaedia of Islam*, New edition, V. I, pp. 284-286.

<sup>35</sup>. Serif Mardin, *The Genesis of Young Ottoman Thought*, (Princeton, 1962), p. 18.