

AN OUTLINE OF ISLAMIC LAW AND
DIFFERENT APPLICATIONS
OF SOME OF ITS RULES
BY THE OTTOMANS

Prof. Dr. NEŞET ÇAĞATAY

Born in Mecca on April 20, 571 AD Prophet Muhammad had already determined the general framework of an Islamic social and economic order by the time He died on June 8, 632 AD at Medina.

As the religion of Islam deals with all activities of the individual including his overall relations with Allah and society, legal and social rules are entwined in an order we call canonical jurisprudence or Shari'a. To put it otherwise, Islamic law is a very large system accomodating rules related to both social life and public administration as the Prophet was both the founder of the Religion and the Head of the State of Medina.

We are not to dwell here on all chapters of the Islamic law, since this is not possible in view of the limited place available. Further, it will not be called for as all the distinguished scholars are well versed in them. Therefore, I will consider here certain characteristics of this law and will limite my exposé to a few illustrations as to how the Ottoman caliph-sultans had made use of and applied some legal rules emanating and drawn from this complexe and amazing system of canonical legislature by modifying them to such degree that sometimes their practices happened to contradict Shari'a.

As yo would recall, in the Prophet's own lifetime the Islamic law had defined sources, such as the Quran and Sunna -practices and rules not lied down in the Book but derived from the Prophet's own habits and words-kiyas and ijihad. Since the Arabs of the period were leading a simple and limited life little difficulties, if any, were encountered or experienced in the application of the administrative or social rules. Occasional exigencies were met, therefore, by inspirations from the Quran, Sunna or by way of analogy (kiyas). Analogy is to provide judgment on a matter for which there exists no decisive Quranic ruling (nass) by comparing it with a similar matter for which there is either a Quranic or Sunna ruling. By way of analogy, rulings pronounced by mujtehids were supported by the Quran and Sunna.

Companions of the Prophet had also made use of analogy. A good example is provided in their accepting Abu Bakr's caliphate because the Prophet had once asked him to officiate as Imam in His absence and in fact Himself once prayed in a row of faithfuls behind him and thus had shown His desire to see him the leader of a simple society.

During his tenure of office Abu Bakr treated a grandfather, in matters of inheritance, as father while Ibn-i Abbas had drawn an analogy between grandfather and the son of the father, thus considering the grandfather a grand child.

In the middle of the seventh century, the boundaries of the Medina's incipient Islamic state were suddenly extended within a consequent need to reconcile different creeds, social and economic orders with the large regions of two ancient and well-rooted empires: the Sassanides and the Byzantium. On the other hand, *Ali -A'isha*, *Ali -Mu'awiya* incidents, i.e., Camel and Siffin Wars that followed Ali b. Abi Talib's election as Caliph have led to formation of different schools of thought, inter alia Kharijis, Sunnites, Shia and several further fractions thereof- merely due to various interpretations of certain Quranic rules and principles. Position assumed by caliphs and other state administrators, attitudes displayed by a number of religious and doctrinaire adherents, war booties, different views of Allah held by people at large and finally relations between life here and hereafter fed and developed distinct schools of canonical jurisprudence. Thus, the Ibadies developed Khawarij jurisprudence, the Shiites the Twelve Imams and Zaydiya jurisprudence while the Sunnites developed Hanafi, Malikites their own school, the Shafites commercial laws and the Hanbalites their own legislation. Thus, seven different schools of canonical law reigned in the realm of Islam.

In the process of systematization their respective legislatures, these different sectarian doctrines made more and more the use of Islamic legal sources, namely *ijtihad* -establishing a religious precedent- analogy and a consensus and general agreement in opinions and decisions of legists - instruments little used during the lifetime of the Prophet. In fact, the Prophet Himself had encouraged His companions to establish religious precedents to such an extent that on certain matters brought to His attention He used to ask them (companions) to judge the same in opinions of their own. In the 43rd verse of the ninth Sura (on Repentance) and in verses thereafter it is stated that mistakes committed in the establishment of a precedent will be pardoned.

At the time He was about to send Muaz b. Jabel to Yemen as administrator the Prophet asked him how he was going to solve problems

connected with public affairs and he told Him that he would settle matters according to the Quran and Sunna. But, when He further asked him what he was to do if he did not find the right ruling, Muaz answered that he would resolve disputes according to his own interpretation of pertinent and analogous legal or religious points. Pleased with this answer the Prophet told him that in case he proved to be just right he was to win two sawabs (reward for a right action) but, should he fail in his judgment, his winning would be limited to one sawab. This is indicative of how the Prophet encouraged in His own lifetime His companions to interpret legal or religious matters in their own respective judgment.

Interpretation of a legal or religious point is a way of sound judgment and muslim administrators and legists have always considered it to be so Omar b. el-Hattab, the Second Caliph, had even issued orders contrary to the absolute Quranic rulings. An example to this is the Quran's injunction regarding the distribution of the for-fifths of war booties, be they movable goods or real estate, amongst those who took part in the battle, which injunction Omar had disregarded arguing that future generations had a right to such real estate. Again, whereas 61 st verse (Repentance Sura) in the Quran had foreseen the distribution parts of war booties, during the conquest of Mecca, amongst the leading personalities of this township who had demanded a period of grace in which to embrace Islam to help them to identify themselves with the new faith, Omar had dismissed this rule during his reign of office. This interpretation of a legal or religious point which we may equally define as pronouncing a ruling from evidences, proofs and arguments had become, starting with the second half of the seventh century, the most important source of new legislation and ordinances in Islamic Law. As the sources of such ijtihads were the Quran and the records of the sayings and actions of the Prophet, the comments made and the interpretations had to have the former's supports. More often than not such interpretations were a source of jurisdiction of great importance and played a role in the overall development of the Islamic Law. Not everybody is capable of such interpretation since this requires a profound grasp of the language (Arabic), a perfect knowledge of interpretation, of hadith, of kiyas etc. and most of all the best of intentions and a firm faith. The years 100-350 of hegira (718-961 AD) are regarded as years of ijtihad when great Imams and legists studied all aspects of the Islamic Law whereof the main bastions are fiqh and have established its general principles.

Following this period and beginning with fourth century Hegira (1009 AD) it was thought that the era of interpretaiton and thus establishment of

precedents was ended, whereas there still were great fiqh scholars capable of such attempts. But these latter could not and would not venture to interpret as they were hesitant lest they would be criticized. As a matter of fact, it was not a bright period for the world of Islam which had lost its political and administrative powers and luster and was in fact in a spiritual depression. Sectarian disagreements were rife, with each leader of defender trying to justify his views by attempting to suppress others. To give an example we may mention Abu Muhammad Abdullah b. Yussuf Juvayni (d. 1043 AD) who had begun to pen his famous treatise "el-Muhid" in which he tried to free himself from all sects and ways of religious thinking and drew all his judgment and reasoning from the sources of *nass* and dogmas in both the Quran and sunna and thus hoped to satisfy all schools of thought. He had shown neither any inclination to any sect or school nor was he ever biased. Three chapters of his book were fallen into the hands of Abu Bakr Ahmad b. Hassan b. Ali el-Bayhaki (994-1066 AD), a Shafii scholar who criticized some of the records and sayings of the Prophet and the author gave up his writing.

Again, the Abbasid Caliph el-Mansur (his reign 754-775 AD.) attempted to have a book written and requested to this effect from Imam Malik b. Enes (712-795 AD.) the collection of all rules and rulings acceptable to all muslims and comprised by the Islamic Law and this latter wrote his treatise "el-Muvatta" that contained his own views (the Malikite fiqh). Eleven years after Mansur, Harun-er Rashid (his reign 786-809 AD.) succeeded to the Abbasi throne and therupon suggested to Imam Malik "let us place your book at Kaaba and thus make it possible for all believers to come and read it. Thus we will provide unity in application and practice." The Imam objected to this, arguing that there were well-versed and authorized Islamic law scholars everywhere in the realm of Islam and that they pronounce judgments in accordance with circumstances and situations in their proper lands. "However different they may or seem to be, such judgments and rulings are correct and befitting so they must be heeded to" he added. What the Imam meant is the inevitability of changes in the Islamic law by countries and changing times.

Malikshah (1055-1092 AD) the ruler of the Great Seljuks had desired to have a common legislation and jurisprudence to be compiled and offered to the benefit of all muslims, but gave up the idea when he realized that sects treated any one subject differently from each other and from place to place. As to opinions of certain *madhab* leaders on the question of whether gates of *ijtihad* remained open after the tenth century of Islam, a great majority of

Hanefites believe that they did. On this issue Malikites, Hanefites and Shafiites are all in unison. According to them, there may not be an absolute mujtehid at any given time, but there must be mujtehids in each *madhab* every hundred years. As to Hanbelites, they believe that the world of Islam should not remain without mujtehids in any given century. This is what Ibn-i Kayyum el-Javziya (1292-1350 AD.) says on this point: "On the issue of future mujtehids the Prophet had said that Allah would send a mujtehid in the beginning of each century to rejuvenate the Religion and these (mujtehids) would be the persons to both reinforce and re-invigorate Islam." With these thoughts Hanbelites express their beliefs that the gates of ijtehad remain open and that it is necessary to have an absolute mujtehid every hundred years. In the belief of the Shiites' Imamiya branch the gate of ijtehad is eternally open. The ayetullahs of Twelve Imams consider themselves these latter's representatives and as such, when unable to find rulings in the deeds and words of Imams, they solve problems through their own logics, i.e - by their own ijtehads. They believe that the mind (argument) comes after the Book, the Sunna and the Imam's argumentations all in that order. Following the closing of gates of ijtehad, muslims began to refer matters not covered by the Quran, Sunna and other Islamic law instruments as elaborated by religious authorities to local muftis who pronounced fatwas containing their personal comments on and answers to issues for which their help was asked. Thus beginning with the eleventh century a number of fatwas were issued in all corners of the world of Islam with consequent compilations of these in Majmu' al-fatwas. The person authorized to issue fatwa, the mufti, had to have well defined qualifications. In the early days of Islam muslims were issued fatwas by the Ashere-i mubaşşerea, by the companions of the Prophet and finally by those legists who survived Muhammad but had conversed with at least one of His companions, have always been the most valuable sources for new legislations.

In matters of state the Ottomans always sought the expressed opinions of muftis and above all that of the Shaykh al-Islam, alias the Grand Mufti. In their fatwas legists had to indicate sources from which they had drawn their conclusions and verdicts. No such obligation, however, existed in the case of Shaykh al-Islam himself whose verdicts could neither be disputed nor refuted. As the Ottoman cadis had to support their pronouncements on Hanefite views and, The muftis had to base Their fatwas on Hanefits ways of Thinking and concept, in licences granted to them they were explicitly ordered to base their verdicts and fatwas -within the limit of certain

exigencies and exceptions- on decisive and extremely clear verdicts expressed by the Hanefite imams. In simple cases the *cadi's* verdict became null and void if based on other sects views since he was regarded as a representative of the Sultan in the administration of justice. Whereas the Ottoman caliph-sultans represented the Sunnite *madhab*, Bektashi traditions on line with and akin to the Shia sect prevailed amongst the military in Istanbul, the Empire's capital, especially in the barracks of the Janissaries.

Use of *urf* -what is traditional, customary and approved- as a source of law making: Accepted by the Hanefites and Malikites as fundamentally original and true where there was no decisive ruling (*nass*) on a matter, *urf* was a mechanism by which society had had its affairs settled in all times and in every instance. *Urf* is generally regarded as forming part and parcel of *fiqh* procedures as evinced by the Prophet's hadith "what is beheld as beautiful by muslims is also beautiful in the presence of Allah." Any action contrary to an *urf* leads to embarrassment and uneasiness, whereas the Quran says "Allah has created no difficulties for you in the Religion." Both Hanefite and Malikite scholars maintain, therefore, that "what is settled by a true and accurate *urf* carries equal weight with what is settle by a canonically legal argument." Those of the scholars who take *urf* as an argument from which to arrive at conclusions accept its validity where there exists no ruling in the Quran or Sunna on the issue under consideration. In fact, Islamic legists have recognized in general the rights of the sultans, on grounds where there was nothing explicitly contradictory in *Sheri'a*, where public interests made it imperative and finally provided there was nothing violating 'urf and traditions' to enact a law. On this topic, legists have said that in view of public interests and in cases where the State's power of disposal on the individual was inevitable (imperative) such action is also true, accurate and valid canonically.

Right from the beginning of their state the Ottomans had practiced a dual system of legislation: *urf* and *Sheri'a*. This was all the more pronounced in laws concerning the administration and public institutions where a system of law which may be termed 'national' or '*urfi*' was developed. This tradition, inherited from ancient Turkish states and jealously perpetuated, helped ease the meeting of Turks own needs in national local legislation as well as in collecting local taxes and dues in territories conquered and annexed. Thus institutionalized, the law has gradually developed in a new and fresh structure different from *Sheri'a* which then seemed somehow frozen in canonical literature, gaining by and by a form and nature of a state or political law, systematized through legislations.

We believe the Ottoman rulers had enacted laws since the very beginnings and these ought to have caused the formation of certain special codes of laws affecting well defined areas of public administration by gradual collection and compilation of a number of royal decrees, orders and firmans - pronounced and edicted at different times but dealing with one and same matter. By putting all these individual codes and statutes together, a much comprehensive collection of laws, that had been in practice in a certain period of the Empire, was obtained. It is believed that the first such collection of military and political laws was obtained during the reign (1362-1389 AD) of Sultan Murat upon his order by Timurtash Pasha. Such statutes of law or codes were systematized and re-arranged during the reign (1451-1481 AD) of Sultan Mehmed the Conqueror. This last mentioned Sultan speaks of "laws of my ancestors, of my father and my grandfathers" in his code of laws concerning the non-muslim subjects of the Ottoman Empire which he himself proclaimed immediately after the completion of the conquest of Istanbul.

Matters resolved according to these laws did not concern Sheri'a but rather were in the order of prohibitions, interdictions and sultans orders that came under urf. And the law in this field was not a scholastic and theoretical one, created through canonical interpretation drawn from a collection of judgements by religious authorities, but a system of rulings outside religious considerations that was practical, applicable, inspired by the day to day necessities and exigencies of a well formed state and that drew on a wealth of experience gained through a long tradition of public administration. *It would be utterly wrong to put these collections together with fatwas.* As a matter of fact, it would have been quite impossible for these laws to emanate from fatwas. Even some of these latter, apparently edicted to resolve certain important and discutable matters, were, unlike verdicts of a higher legal authority, mere confirmations by a religious authority to the effect that orders, interdictions etc. not treated in the Quran and not taken up by Sheri'a on account of their unrelated natures were also legal from the point of Islam. In the Empire (Ottoman) while fatwas furnished by famous muftis were being compiled, codes of laws containing orders and firmans edicted by sultans were being created. These latter seem to be parts of an overall attempt to develop a law of usage and custom, entirely independent in itself from Sheri'a, side by side with renowned books of fiqh. An example to this is Collection No. 4789 in Istanbul's Bayazid General Library. In later periods a great number of collections were created through either private or official initiatives. Inter alia, we are in possession of codes of laws and statute books

compiled and created during the reigns of Soliman the magnificent, the Lawgiver (r. 1520-1566 AD), Selim the Second (r. 1566-1574 AD), Ahmed the First (r. 1603-1617 AD) and finally of Murat the Fourth (r. 1623-1640 AD). The most famous of all these collections is the legal compendium named "Telhis ul-Beyan fi Kavanin-i Al-i Ossman" and compiled by Hezarfen Hussein Effendi in 1675. Until the end of the dynasty the Ottoman sultans continued to issue such collection of laws, and the role played by legists, scholars and experts on public administration who were amongst the rank and file of the Ottoman Divan, in the preparation application and modification of said collection had indeed been enormous. The said role was limited, however, to technical and expert advice and consultations and did not involve the actual law making. In form and applicability such laws did not become valid and practical but by the expressed will of the sultan who listened the proposed texts of each legislation. When proclaimed such laws did not carry the Shaykh ul-Islam's approval since the tenure of the office of this Grand Mufti depended entirely on the will of the sultan. Nevertheless, there are instances of fatwas furnished by the Shaykh ul-Islam for the introduction of printing press into the Empire and to wage wars. When edicting their fatwas on affairs that are being conducted through a series of legal procedures the Shaykh ul-Islam used the wordings "not a canonical matter", "should be proceeded as firmaned" which is indicative of the sensitivity displayed in worldly and state affairs by men of religion who considered such issues "affairs of state and of politics". Enforcement of laws was the sultan's own and personal prerogative. At the time he succeeds to the throne the new sultan may either approve, enforce and make practices of laws, orders or firmans of his predecessor or feels free to change, to replace or to abolish all or part of legislation. In all territories within the realm, in autonomous provinces (sanjaks), in provinces (wilayats), counties and townships officials specially entrusted with the duty of visiting all and every village, farm and homesteads, prairies and summer pastures whereto flocks were moved in order to register taxpayers with their fields of occupation or professions with a view of completing the written survey of each province. Rules applied in each region, taxes collected according to Sheri'a and customary practices were written in the preface or the preamble of said registers as the codes of laws or practices special to and prevailing in the region involved. Occasional dispatch of inspectors to regions mentioned established changes that had occurred between two surveys. When changes assumed considerable volumes so as to warrant modification in the existing registers then the regions in question were

surveyed afresh. The latest land registration records (title deeds etc) kept at the time of Sultan Selim the Second are preserved at the General Directorate of Title Deeds and Land Register in Ankara. One hundred and seven codes of laws culled from the opening chapters of these registers were published in 1943 by the late Mr. Ömer Lütfü Barkan.

Of considerable interest are also the 'justice bulletins' issued and dispatched, upon malpractices observed in the enactment of certain laws, to district governors, provincial administrators, county officials etc. to warn them of the consequences of such practices and with a further request that the same be read to citizens at large in public places and gatherings. For a negligible sum people were also able to purchase copies of these "bulletins" made available by public amanuensis. Seventeen of such "bulletins" were published in the Turkish Historic Society's periodical titled "Belgeler - Historic Document" in 1967.

Separate from these laws and justice bulletins, special laws governing activities of certain associations, institutions, military circles, customs and excise and sea ports were also developed. In some of these codes of laws included in the preambles of land survey registers mentioned above certain articles and instruments of legislation that had been, prior to the conquest of the region, in common practice under its former rulers and not abrogated still carried their original heading in the registers: "Law enacted by Alauddevle Bey in the realm of former Dulkadir oğulları State", in the former territories of Akkoyunlu State "Law passed by Hassan Bey" and "Kansu Gavri Law" in legislation pertaining to Syrian territories taken from Mamaluks.

Statutes in Sultan's Decrees runnign against Shari'a: When carefully studied, these royal decrees, firmans and letters will reveal a host of judgments passed that have nothing to do with the Islamic law. In fact, there are several that run against it. We are not to enumerate here everyone of them but will limit ourselves to a few instances:

An example connected with public landed property: matters explicitly provided for in original sources of Shari'a, such as the purchase by muslims of tillable land, disposal of the same by the same and the inheritance procedures were so transformed by the Ottomans as to fall, by royal edicts worded concerning state's taxation and land policies, into the law of usage and custom. Ever since the foundation of the Ottoman State, a very large portion of the realm's land had been managed in a statute that made all public property. According to this land regime all citizens, except the

peoples of Abyssinia, Egypt and certain regions of North Africa engaged in agriculture were permanent or hereditary tenants or leaseholder with the exception of negligible private estate, the state had divided all arable land in the realm into farms ranging from 60 to 200 donums in area and leaseholders were able to maintain their tenure so long as they would and could till the land. Tenement was against one-tenth of the value of crops and other produces in cash or in kind plus a fixed sum (again in cash) termed as "farm dues" as rent. Under this regime (public landed property) leaseholders had no right to sell, to grant or to leave to a pious foundation (the *vaqf*) they land they worked and at the time of their deaths the landed property could not be divided amongst their heirs. With a view of keeping the farms undivided, these were only passed to one of the heirs of the deceased fulfilling the qualifications enumerated in the code of laws without the payment of any dues or fees. According to the Islamic law however, such lands would be divided amongst the heirs of the deceased in proportions described by the Islamic Inheritance Law. The principle of non-partition of small farms had continued for 550 years until the proclamation of "Landed Property Law" in 1858.

The establishment of foundations that is not foreseen in the Quran and with the exception of a single, insignificant instance in Sunna greatly damaged the Islamic Inheritance Law. Also in the field of Islamic penal law the Ottomans had carried on practices that were blatantly against and in violation of *Sheri'a*. Legislation made and enforced by caliph-sultan and their firmans indicate that when the state interests were paramount, in order to take the necessary measures, *Sheri'a* concepts could be circumvented.

Islamic states prior to the advent of the Ottomans had devised 'courts of cruelties' where insurgents and those threatening the security and the unity of the state were dealt with by methods different from the Islamic penal code. Amongst the Ottomans rules in this field largely differed from *fiqh*. Similarly some Ottoman sultans had their brothers strangled for the sake of "good order in the realm", hanged viziers under the slighes of pretext, confiscated their properties and had done in bandits with the excuse that these were aiming the financial well-being and military security of the State and those propagating harmful religious ideas and even those resisting to pay public debts and counterfeiters.

Whereas, barring the practice of retaliation (*kissas*) in manslaughter, no fines exist in the Islamic Penal Code in the Ottoman codes a number of crimes were transmuted into fines and these were added to clauses

concerning punishments defined in Sheri'a. Adultery is an example, for while Quran punishes it by stoning and clubbing, the adulterers were fined from 100 to 300 silver coins -fines proportionate to the wealth of the one committing adultery. When both sexes involved were not married the fines were further reduced, down to 40 silver coins. Should the adulterers happen to be non muslims, slaves or odalisks, again on the strength of their wealths, fines were halved. For wounds inflicted, if no evaluation was made on the basis of retaliation (*lex talionis*), fines, were imposed depending on the degree and extend of injuries sustained. While the Islamic penal code commands the amputation of a hand in theft valued over ten grammes of silver, in the Ottoman laws the punishment was administered either in the form of clubbing, fines or both clubbing and fines -one silver coin for each bout of clubbing.

Canonically speaking *riba* or usury is an illicit act. This canonical interdiction was later observed when even negligible rates of interest were involved; whereas the Ottomans did not consider it an illicit act in the case of interests that remined below 15 to 20 % of the capital as stated in "Maruzat" of Ebussuud Effendi and in codes of law and 'justice buletins'. Furthermore, hundreds of monetary funds (*vaqf*) were created of which revenues were spent on charities and philanthropy. In 1551, of the 2445 monetary funds operating in Istanbul 845 were purely fiscal ones and 305 of them carried their business with incomes in which incomes from interests occupied a considerable volume. Sixty-one percent of all these fuds were created between 1519-1551.

By 1561, in the city of Bursa alone, apart from considerable estate public funds were in possession of some 3.5 millions silver coins of which some 3.250.000 coins were loaned on interest with an annual net take of 333.110 silver coins. In order to offset increases in meat prices and thus subsidize Janissaries meat rations both Sultan Mehmet the Conqueror and Soliman the Magnificent, the Law Giver loaned respectively 24.000 gold and 698.000 silver coins with interest.

Canonically, consumption, purchase and the sale of wine is a very illicit act and yet the Ottomans levied a state tax (10 %) on all wines produced by non-muslims. Furthermore, local private producers and wine merchant had to wait two months and 10 days to offer their own wines for sale, this is simply to allow the State to dispose off through direct sales to consumers- its wines awaiting sale and collected in leu of taxes levied. By the same token, Islam considers pig unclean and filthy, therefore forbids its meat. Because of this

muslims did not breed pigs while non-muslims of the Ottoman Empire were free, as in the case of wine, to breed pigs and consume its meat. However, the Ottomans taxed both the breeding and consumption of pigs. During the reign of Soliman the Magnificent, the Law Giver (r. 1520-1566) taxes levied amounted to one silver coin per pair of pigs and was collected at the time taxes on beehives were collected. Advancement in Europe, initiated in the 15th century by Renaissance, Reformation and the invention of the printing press and gained momentum in the hundred years that followed, slowly had its effects on the Ottomans through their contacts with Europe in wars, treaties, exchange of diplomatic envoys with the European states. Ottoman institutions, military and civilian alike, were utterly decadent at the turn of the 18th century and despite the fact that limited and merely military-oriented reform movements were started by Mahmud the Second (r. 1809-1839) in the beginning of the second half of the century, the necessity to separate religion from the affairs of the state and the public dawned upon the people after the political reforms announced by Abdulmejid.

During the Crimean War (1854) between RUSSIA AND THE Ottoman Empire when England, France and the newly unified Italy were on the side of the Empire cooperation between all these states led to the proclamation of an Imperial Reform Edict (1856), the said Edict itself paving the road to furtherance of these fresh reforms in a democratic way of public administration and what is more in democratic thinking.

European law of commerce and the European maritime commerce laws were adopted respectively in 1850 and 1864. In 1858 a new land law was enforced. The first civil commercial court of justice was opened in 1880 to carry business independently of the Sheri'a courts. Two years later, again from the West, judicial procedures observed in commercial courts of justice were adopted. The same year first regional saving coffers (ancestors of the present Turkish banks) that were receive deposits and extend credits on the basis of both paying out and charging interests were opened. A committee set up in 1869 and headed by Javded Pasha took a further step forward in the realm's legal reform when it compiled a Sheri'a based new civil code called "Mejelle" and aimed at solving citizens' problems on the basis of legal rulings. Enforcement of Mejelle which left the family law outside of its domain endeavoured the legalization of fiqh rather than the arrangement of legal matters by fatwas. In 1908 yet another great leap forward in the secularization of the country's affairs was achieved when the Sheri'a courts of justice were separated from the Office of the Shaykh ul-Islam and placed under the administration of the Ministry of Justice. Again, in 1917, long

before the proclamation of the Turkish Republic, a decree having the force of law was issued with a view of legalizing the ancient family law by which a wife not consenting her husband's taking a second wife could obtain divorce. Further, at the time of her marriage the future wife was able to stipulate that her future husband would not have but one wife.

Balkan Wars, World War I and successive wars waged against the occupying forces in the Turkish land had utterly exhausted Turkey. Feeling the need to recede into national boundaries with efforts to modernize the new society in educational, economic and social fields the Great Leader Ataturk prepared all plans concerning a sound and vigorous advance of Turkey as a secular State and in the democratic way of life. And today, Turkish people are advancing in unity and with determination on the path indicated and illuminated by this truly great leader.

